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ENVIRONMENTAL ASSESSMENT

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MITCHELL GAME FARM

Montana Department Of
Fish, Wildlife & Parks

Aug 9 1995
Dec 31, 2001

APR 5 1993

ENVIRONMENTAL ASSESSMENT
for
MITCHELL GAME FARM

PART I. GAME FARM LICENSE APPLICATION

The department's authority to regulate game farms is contained in sections 87-4-406 through 87-4-424, MCA and ARM 12.6.1501 through 12.6.1519 (Appendix A).

1. Name of Project: **Mitchell Game Farm (Mark and Margaret Mitchell), applicant).**

2. Name, Address and Phone Number of Applicant: Mark and Margaret Mitchell, 7316 Cottonwood Road, Bozeman, Montana 59715.

3. If Applicable:

Estimated Construction/Commencement Date: The applicant intends to initiate construction of the facility as soon as the ground thaws in the spring of 1993. Game farm applications must be processed by FWP within sixty days of receiving a completed application. The application was completed after receiving some additional information on January 27, 1993. Therefore, the FWP has until March 28, 1993 to process the application.

Estimated Completion Date: The applicant expects to complete the second and final pasture of the initial facility during the spring of 1994.

Is this an application for expansion of existing facility or is a future expansion contemplated? There is not an existing facility. The applicant indicates present plans call for completing the second of two proposed pastures by the spring of 1994. Additionally, they plan to purchase adjacent land for enlargement of the operation in following years.

4. Location Affected by Proposed Action (county, range and township). Gallatin County, R 5 E, T 2 S, N 1/2, SW 1/4, NW 1/4 Section 27. See Appendix B for detailed legal description.

5. Project Size: Estimate the number of acres that would be directly affected that are currently:

(a) Developed:
residential... 0 acre
industrial.... 0 acre

(b) Open Space Areas
13.5 acres
1 single family dwelling

(c) Wetlands/Riparian
Areas..... 0 acres

(d) Floodplain... 0 acres

(e) Productive:
irrigated cropland..... 0 acres
dry cropland..... 0 acres
forestry..... 0 acres
rangeland..... 0 acres

other..... 0 acres

6. Map/site plan: See Appendix B.

7. Narrative Summary of the Proposed Action or Project including the Benefits and Purpose of the Proposed Action.

The applicants propose to build a game farm approximately three miles southwest of Bozeman, Montana. Mr. Mitchell owns and operates Montana Fence and Development and has worked for a number of elk ranchers in the state. With this experience, he is familiar with the fencing and facilities associated with these other operations.

The initial facilities will include two elk pastures (one built in 1993, the other in 1994). Also included will be working facilities and a quarantine pen. Initially they will stock the game farm with five cows and one bull. The Mitchell's plan to eventually house 15-20 elk in the presently planned facility. They intend to keep bulls separated from cows in the two pastures. Water will be piped into tanks located in the pastures. Elk will be fed hay pellets, supplemented with existing natural feed. The applicants intend to primarily be in the business of selling breeding stock (cows) with little or less emphasis on the horn market. They intend to expand the operation as elk numbers grow. They also plan to purchase adjacent land and enlarge the operation in the years to come.

The Montana Department of Fish, Wildlife and Parks under 87-4-408, MCA has primary jurisdiction over the licensing of game farms (Appendix A). Section 87-4-409(3) specifies that Fish, Wildlife, and Parks has 60 days to notify the applicant of its decision to approve or deny the application. The department is also required, under the Montana Environmental Policy Act, to initiate an environmental review process for any State action that may have any significant impacts on the human environment, FWP must therefore comply with the Montana Environmental Policy Act (MEPA) in the licensing process, as well as the Game Farm Statutes.

8. Listing of any other Local, State or Federal agency that has overlapping or additional jurisdiction.

(a) Permits: NA

(b) Funding: NA

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Agency Name	Type of Responsibility
State Historic Preservation Office	Identifying, documenting and preserving cultural resources in Montana
Gallatin County Weed Board	Control of noxious weeds in Gallatin County
Department of Health and Environmental Sciences Water Quality Bureau	Air, water quality, human disease

Environmental Quality Council	Montana Environmental Policy Act compliance
Montana Department of Natural Resources	Conservation Districts
Gallatin County Commission	County government
Montana Department of Livestock	Regulation of Game Farm animal health, testing, transportation, etc.

9. List of Agencies Consulted During Preparation of the E.A.:

Montana Department of Fish, Wildlife & Parks
    Wildlife Division
    Legal Unit
    Law Enforcement Division
Environmental Quality Council
Gallatin County Commissioners
Montana Historical Society/SHPO
Department of Health and Environmental Sciences
    Water Quality Bureau
U.S. Soil Conservation Service
Gallatin County Weed Board

PART II. ENVIRONMENTAL REVIEW

1. Evaluation of the Impacts of the Proposed Action on the Physical Environment.

Direct and indirect impacts on soil, vegetation, air and water. If season-long continuous grazing occurs by elk, it would have a high potential to negatively impact native vegetation in the pastures. This effect can be expected to be similar to a livestock feed lot situation. Continuous grazing of vegetation can over time result in the elimination of native vegetation through reduced plant vigor and physical trampling. The reduction of native vegetative ground cover would increase the probability of annual weed establishment and a dramatic increase in bare ground.

Consequences of proposed action: The potential for soil loss through wind and/or water sheet erosion would increase if vegetative ground cover is reduced. Wind erosion can potentially increase particulate matter (dust) , which may result in a deterioration of ambient air quality. Water sheet erosion could result in some minor soil loss, but the pastures are located on flat ground reducing the degree of this loss. Contaminants from concentrations of elk would be in the form of fecal material and insecticides or other chemicals used to treat the animals and/or weeds. The effect of the concentrations of these contaminants to the local watershed and groundwater system is unknown. There is no permanent running water in the pastures that allows drainage off the property and the terrain is flat which would further minimize this hazard. However, the effects to groundwater are unknown, but may present a hazard. While there was no survey conducted, no endangered plant species are known to exist on the property.

Potential mitigative measures: A rotational use of pasture grazing would allow for the maintenance of native plants and ground cover. If it is found that water sheet erosion is placing contaminants from the pastures into adjacent waterways, the applicant should and make every effort to correct the situation. This action could include the removal of fecal material from the pastures and/or the establishment of physical barriers in areas where the erosion is likely to occur. The establishment of weeds in the pastures will have to be controlled by the applicant.

Consequences of no action: If the game farm is not established, the negative effects listed would not occur unless a livestock feedlot situation were established in its place.

2. Evaluation of the Impacts of the Proposal on Fish, Wildlife and Livestock.

A. Immediate impacts of the proposed action on populations of native wildlife presently on the site.

It is unlikely due to the terrain, presence of domestic livestock and lack of woody vegetation, that any significant numbers of wildlife game species presently occupying the site would be affected by the location, size and operation of the proposal. The site of the proposed game farm is located on level grassland. One intermittent seep is located in one pasture that terminates just off the property and does not access a live waterway. This seep is apparently related to irrigation water and includes sedge vegetation, but no woody species such as willow. The site likely is only intermittently used by game animals (probably whitetail deer). No wildlife migration corridors would be affected and no known endangered species of plants or animals are

known to exist. Any negative affects of the game farm would likely be felt by unknown numbers of non-game wildlife that may be using the existing native vegetation.

B. Impact of potential introduction of hybrid elk into the facility and/or surrounding area.

It is the intention of the Mitchell's to raise Rocky Mountain elk. Introduction of exotic and hybrid wildlife to the wild has occurred from similar operations in the past (MDFWP, 1992; Kahn, 1992; Youmans, 1992). It is difficult to visually detect a red deer/elk hybrid and genetic screening procedures only detect first generation hybrids. Many game farmers prefer red deer/elk hybrid animals to those of pure strain wild elk because they are easier to handle, they conform to captivity somewhat better than elk, and they are aggressive breeders (Williams 1992). The serious consequences of exotic and hybrid animals being liberated into the wild, prompted the Montana Fish, Wildlife & Parks Commission to institute emergency rules during 1992 to prevent the transport of certain animals into the State of Montana. If hybrid animals were to find their way into the Mitchell Game Farm and then escape, breeding with native populations would be very likely because native animals are nearby and because red deer and red deer hybrids reproductively out-compete elk. Concern has been expressed for the potential of the elimination of true Rocky Mountain elk through genetic pollution.

C. Potential for wild elk to enter facility or game farm elk to escape facility, and potential impacts of this occurrence.

While this situation would appear very improbable since native elk do not frequent the area of Mitchell's game farm, the potential exists for elk to occasionally wander by. Problems have existed in other game farms where wild elk have gotten into these facilities by a variety of means, including intentionally as well as unintentionally. The motivation to make contact with estrous females is powerful, and bull elk on either side of the fence will attempt to satisfy this urge. In Colorado, 40% of game farm facilities have had wildlife ingress especially during the rut and during winter when food is scare (Proceedings of Game Farm Workshop, Youmans 1992). Regarding animals escaping from game farms, Colorado has had extensive experience. Kahn (1992) cites four instances in Colorado where exotic wildlife became established in the wild. He reports:

"Among those cases documented in Colorado, the success of efforts to recapture escaped wild ungulates has varied widely from all to none. Some escaped elk, red deer or elk/red deer hybrids have been recovered (dead or alive) by owners in 60% of the cases. However in only about 33% of the cases have all escaped animals been recovered. At least six captive elk have been shot by hunters during the past four years; these harvests have occurred up to 30 miles from the facility of origin. Recovery efforts have been even less successful for other escaped species; in 67% of the documented cases owners of escaped exotics have failed (or in some cases not even attempted) to recover animals at large. The consequences of failing to recover escaped captive animals has included establishment of free ranging populations of ibex, Barbary sheep, red deer and fallow deer, as well as the potential genetic contamination of native elk and bighorn sheep populations. The Colorado Division of Wildlife has spent in excess of $150,000 during the past four years in efforts to control and eliminate these escaped populations of exotic wildlife. In spite of these resources the efforts to date have not been 100% successful.

Based on cases documented in Colorado, attempts to recapture escaped captive wildlife are usually only

partially successful at best; moreover, escaped individuals can remain at large and survive in the wild for extended (or indefinite) periods of time and can range significant distances from facilities of origin. Species, group size, acclimation to and duration of confinement facility location and surrounding habitat type, timeliness of detecting escape, and efforts expended in recapture attempts all appear to influence the likelihood of owners recapturing escapees."

D. Impacts of potential parasite and disease introduction related to game farms.

Inadvertent, introductions of parasites and diseases of major significance have taken place at other sites in Montana and in other states (Appendix C). Numerous diseases and parasites of serious concern are briefly described in Appendix C. Tuberculosis has been documented on 5 Montana game farms. Transmission of Tuberculosis to free-ranging wildlife populations would have a significant impact. Efforts to control it, to protect wildlife resources as well as the state's livestock industry, would be very expensive and probably futile.

Manure, other effluent and contaminated soil from the game farm is a recognized dispersal source for transmission of disease and parasites. If through erosion and runoff this contamination were to be transported below the penned area to public and/or private lands, the potential for inadvertent transmission of pathogens would be high.

Disease pathogens and parasites remain viable in contaminated soil for varying lengths of time (up to several years in the case of Elaphostrongylus cervi) depending upon their life cycle and durability. Game farm animals in New Zealand have been known to contract disease from sites that had housed diseased animal from the previous year. Many parasites of concern are passed through fecal material.

In the case of bovine tuberculosis, if conditions are suitable, the organism may survive up to 3 to 6 months (Dr. Robert Meyer, Regional Epidemiologist, Western Region of Veterinary Services, APHIS, USDA, specializing in bovine tuberculosis). Suitable conditions include a moist cool (or freezing) climate, out of direct sunlight. The TB organism survives better than most pathogens due to its waxy lipid cell wall which protects it from drying. Moist cooled fecal material, out of direct sunlight, would provide the correct environment for tuberculosis to remain viable.

Although brucellosis is less durable than tuberculosis, Dr. Calvin Campbell (Regional Epidemiologist, Wester Region of Veterinary Services, APHIS, USDA, specializing in brucellosis) notes the organism can remain viable for days or weeks if cool moist conditions exist. If an animal is infected, some pathogenic discharge will occur via saliva and nasal discharge or through body waste. Fluids associated with the birthing process are the source of brucellosis transmission. Isolation of female animals in an area by themselves where they may calve and clean the newborn further aids in stemming contamination and transmission of brucellosis.

Consequences of no action: No potential for interaction between wild and game farm animals.

3. Impacts on Present Land Use.

Present land use and consequences of the proposed action: Present land use primarily involves raising livestock. The presence of a game farm will change that use from class of animal.

4. Impacts on Human Health

Human health hazards. Pathogens or chemicals could contaminate ground water or other water systems. Some of the common diseases that humans are capable of contracting from wildlife include brucellosis (undulant fever) and bovine tuberculosis.

Potential health consequences to humans. If Montana wildlife populations were to be infected with tuberculosis, hunting and other wildlife related-recreational activities could be adversely affected. If the ground water system were to be contaminated, this could create health hazards for humans.

Mitigation. The potential risk relative to ground water contamination is unknown. The risk of contaminating live flowing streams in the area is low due to the flat terrain in the pastures and absence of any live stream flow within the facility.

5. Impact on Public Services.

Impacts related to FWP administration. Licensing of the game farm will require the FWP to prepare an E.A. and conduct periodic inspections to assure compliance with regulations and rules.

Mitigation. Partial mitigation for costs related to licensing and inspections will be covered by the game farm licensing fee. However, this will fall far short of the actual cost.

Impacts related to potential game farm animal escapes and/or disease problems. The escape of game farm animals may necessitate expenditures of FWP time and funds for recapture or destruction of the animals. The necessity of destroying diseased animals (ie. Bovine tuberculosis) could require a cost to the Department of Livestock as well as the FWP.

Mitigation. The FWP and Department of Livestock may require reimbursement for costs associated with recapture or disposing of animals.

Consequences of no action. There would be no necessity for administrative actions and related costs to the FWP.

PART III. MITIGATION PROPOSED TO REDUCE POTENTIAL FOR NEGATIVE IMPACTS OF THE PROPOSAL

1. In order to negate the possibility of gates being left open, which would cause ingress and egress problems, no extra gates should be located on the exterior perimeters of the fences. Gates should be placed only at points where animal handling and transportation areas will be established.

2. Fencing recommendations as listed in ARM rule 12.6.1503A as found in the appendix of this document are to be complied with unless modified by previous agreement.*

3. Feed bunks and watering troughs should be elevated above the ground to reduce the initiation and transmission of disease.

4. The perimeter of the enclosure should have soil berms built up to a height high enough to control areas where run-off and effluent transport may be a problem.

5. Operator will be required to comply with genetic and disease testing rules as directed by the Montana Department of Livestock.

7. Where possible, it is recommended to allow for the rotation of grazing in pastures to provide for the maintenance of existing vegetation through the elimination of continuous season-long grazing.

*In discussions with the Mitchells, it was agreed that a 9 foot interior fence would add additional security to the facility. Additionally, this facility will be double fenced, the exterior being high tensile barb wire.

PART IV. E.A. CONCLUSION SECTION

1. Based on the significance criteria evaluated in this E.A., is an EIS required? NO

Due to the limited size and scope of the proposed project, an EIS is not required.*

2. Describe the level of public involvement for this project, if any, and given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

Agencies were notified, public notification was placed in the paper with E.A. available. No public meeting was held due to the limited size and scope of the project. Copies of the draft E.A. were made available to the Montana Wildlife Federation (Joe Gutoski), Gallatin Sportsmen's Association (Tim Border) and Jefferson Valley Sportsmen's Association (Chuck Bus).

3. Duration of comment period for the Environmental Assessment:

Comment period will be 14 days starting March 9, 1993 and ending March 23, 1993.

4. Name, title, address and phone number of the Person(s) Responsible for Preparing the E.A.:

Joel Peterson, Acting Wildlife Manager, Montana Department of Fish, Wildlife and Parks, 1400 South 19th, Bozeman, MT 59715; 994-6936.
Shirley Swecker, Administrative Aide, Montana Department of Fish, Wildlife and Parks, 1400 South 19th, Bozeman, MT 59715; 994-4042.

***NOTE:** This E.A. covers only the proposed facility (approximately 13.5 acres). The operator indicates there is a potential for expansion in the future. Any expansion of the existing proposal will have to be approved by the FWP under regulations in force at the time of the proposed future expansion.

LITERATURE CITED

Kahn, Rick. August 1991. Game farming seminar. Helena, MT.

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Montana Department of Fish, Wildlife & Parks, 1992. Summary of background information pertaining to regulation of the game farm industry. Prepared by Heidi Youmans. 24 pp.

Williams, Ted. 1992. Canned Hunts. Audubon. Jan-Feb. Issue, pp. 12-19.

Williams, Ted. 1992. The elk-ranch boom. Audubon. May-June Issue, pp. 14-20.

Youmans, Heidi. 1992. Summary of Background Information Pertaining to Regulation of the Game Farm Industry. MDFWP "White Paper" publication. 24 pp.

Youmans, Heidi. March 1992. Summary of Game Farm Workshop, Boise, ID.

APPENDIX A

MDFWP LEGAL AUTHORITY TO REGULATE GAME FARMS

LISTING OF MITIGATION, STIPULATION, OR OTHER CONTROL MEASURES ENFORCEABLE BY THE AGENCY

MONTANA CODES ANNOTATED:

1. Unscheduled inspections	87-4-413
2. Informing MDFWP of sale or transport of animals	87-4-415
3. Issuance of annual shooting license	87-4-421
4. Restrictions on importations of certain species	87-4-424
5. Compliance with shooting preserve statutes	87-4-501 - 87-4-528

ADMINISTRATIVE RULES OF MONTANA

1. Fencing requirements	12.6.1503A
2. Game Farm Reporting	12.6.1504A
3. Cloven-hoofed animals as game farm animals	12.6.1506
4. Holding and handling facilities	12.6.1509
5. Quarantine areas required	12.6.1510
6. Licensing limitations (expansion and public review)	12.6.1511
7. Game Farm animal identification: cloven-hoofed ungulates	12.6.1513
8. Transportation	12.6.1514
9. Importation	12.6.1515
10. Duty to report Contagious Diseases	12.6.1516
11. Escaped Game Farm Animals	12.6.1517
12. Confiscation procedures	12.6.1518
13. Waiver	12.6.1519

STATUTES
STATE OF MONTANA
DEPARTMENT OF
FISH, WILDLIFE,
AND PARKS

GAME FARMS & SHOOTING PRESERVES

Part 4

Game Farms

87-4-401 through 87-4-405. Repealed. Sec. 51, Ch. 570, L. 1983.

Compiler's Comments

Histories of Repealed Sections:

87-4-401. En. Sec. 84, Ch. 173, L. 1917; amd. Sec. 1, Ch. 200, L. 1919; re-en. Sec. 3777, R.C.M. 1921; amd. Sec. 31, Ch. 192, L. 1925; amd. Sec. 1, Ch. 73, L. 1933; re-en. Sec. 3777, R.C.M. 1935; amd. Sec. 1, Ch. 120, L. 1947; amd. Sec. 1, Ch. 43, L. 1967; amd. Sec. 1, Ch. 78, L. 1971; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1201(part).

87-4-402. En. Sec. 84, Ch. 173, L. 1917; amd. Sec. 1, Ch. 200, L. 1919; re-en. Sec. 3777, R.C.M. 1921; amd. Sec. 31, Ch. 192, L. 1925; amd. Sec. 1, Ch. 73, L. 1933; re-en. Sec. 3777, R.C.M. 1935; amd. Sec. 1, Ch. 120, L. 1947; amd. Sec. 1, Ch. 43, L. 1967; amd. Sec. 1, Ch. 78, L. 1971; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1201(part).

87-4-403. En. Sec. 84, Ch. 173, L. 1917; amd. Sec. 1, Ch. 200, L. 1919; re-en. Sec. 3777, R.C.M. 1921; amd. Sec. 31, Ch. 192, L. 1925; amd. Sec. 1, Ch. 73, L. 1933; re-en. Sec. 3777, R.C.M. 1935; amd. Sec. 1, Ch. 120, L. 1947; amd. Sec. 1, Ch. 43, L. 1967; amd. Sec. 1, Ch. 78, L. 1971; R.C.M. 1947, 26-1201(part); amd. Sec. 2, Ch. 218, L. 1979.

87-4-404. En. Sec. 84, Ch. 173, L. 1917; amd. Sec. 1, Ch. 200, L. 1919; re-en. Sec. 3777, R.C.M. 1921; amd. Sec. 31, Ch. 192, L. 1925; amd. Sec. 1, Ch. 73, L. 1933; re-en. Sec. 3777, R.C.M. 1935; amd. Sec. 1, Ch. 120, L. 1947; amd. Sec. 1, Ch. 43, L. 1967; amd. Sec. 1, Ch. 78, L. 1971; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1201(part).

87-4-405. En. Sec. 84, Ch. 173, L. 1917; amd. Sec. 1, Ch. 200, L. 1919; re-en. Sec. 3777, R.C.M. 1921; amd. Sec. 31, Ch. 192, L. 1925; amd. Sec. 1, Ch. 73, L. 1933; re-en. Sec. 3777, R.C.M. 1935; amd. Sec. 1, Ch. 120, L. 1947; amd. Sec. 1, Ch. 43, L. 1967; amd. Sec. 1, Ch. 78, L. 1971; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1201(part).

87-4-406. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of fish, wildlife, and parks.

(2) "Game animals" means game animals as defined in 87-2-101 that are not the lawful property of any private person.

(3) "Game farm" means the enclosed land area upon which game farm animals may be kept for purposes of obtaining, rearing in captivity, keeping, and selling game animals or parts of game animals, as authorized under this part.

(4) "Game farm animal" means a privately owned caribou, black bear, mountain lion, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana or any other cloven-hoofed ungulate as classified by the department.

(5) "Game farm shooting license" means the license required under 87-4-421 for a game farm operator to hunt the game farm animals indigenous to the state of Montana on his game farm.

(6) "Person" means an individual, firm, corporation, association, or partnership.

History: En. Sec. 1, Ch. 570, L. 1983; amd. Sec. 3, Ch. 540, L. 1985.

87-4-407. License required. No person may operate a game farm in this state without first obtaining a game farm license from the department.

History: En. Sec. 2, Ch. 570, L. 1983.

87-4-408. Department jurisdiction — applicability of livestock laws and rules. (1) The department has primary jurisdiction over game farms.

(2) A game farm licensee must also comply with all applicable laws and rules administered by the department of livestock relating to marking, inspection, transportation, and health.

History: En. Sec. 3, Ch. 570, L. 1983; amd. Sec. 1, Ch. 531, L. 1991.

Compiler's Comments

1991 Amendment: At end of (2) inserted language concerning compliance with laws and rules relating to marketing, inspection, transportation, and health.

87-4-409. Application for license — limitations on issuance. (1) Any person desiring to obtain a game farm license shall make written application to the department. The application shall specify:

(a) the applicant's name;

(b) the applicant's address;

(c) the exact legal description of the land upon which the game farm is to be located, together with the nature of the applicant's title thereto, whether in fee, under lease, by contract for deed, or otherwise;

(d) the species of game animals proposed to be kept or reared on the game farm;

(e) the type of fencing contemplated;

(f) the source from which the applicant intends to acquire the game animals;

(g) if the applicant is not a Montana resident, the name and address of a Montana resident designated by the applicant as his local agent;

(h) if the applicant is a corporation, the full names and addresses of all stockholders owning more than 10% of the stock in the corporation; and

(i) information demonstrating that the applicant is responsible.

(2) A game farm license shall be issued only to a responsible applicant who owns or leases the premises on which the operations are to be conducted and who has properly fenced the land upon which the game farm is to be located. The fencing must be designed and constructed to prevent the escape of the species of game farm animals kept on the land and to prevent the entry of the same species of game animals.

(3) Within 60 days of receiving the application, the department shall notify the applicant of its decision to approve or deny the application. If required fencing has not been completed, the department shall approve the application subject to completion of the fencing. If the application is denied, the department shall specify the reasons for denial.

History: En. Sec. 4, Ch. 570, L. 1983.

87-4-410. Removal of game animals. (1) If game animals are present on the land which is to be covered by a game farm license, the license shall be issued but must be conditioned upon the applicant complying with this section.

(2) Before the fence surrounding any such land may be closed, all game animals must to the extent possible be driven therefrom by the applicant, at the applicant's expense and under the direction of a representative of the department.

(3) If at the time the license is issued all game animals cannot be removed from the licensed land, the applicant and a representative of the department shall decide the approximate number of remaining game animals of each indigenous species. This number is the "base number".

(4) The department may remove the base number of game animals from the game farm by trapping them within 120 days from the date the number was determined.

(5) If the department decides not to remove the game animals or if some game animals were not successfully removed by trapping, the public must be granted access to harvest those game animals during a special hunt set for that purpose during the next regularly scheduled hunting season. All administrative costs incurred by the department in arranging the special hunt or providing for hunting on the applicant's land during the regular season must be reimbursed by the applicant.

(6) After compliance with this section, any animals from the base number that remain and their progeny belong to the licensee, and the licensee may deal with them as provided for in this part.

History: En. Sec. 5, Ch. 570, L. 1983.

87-4-411. License and renewal fees — deposit of fees. (1) The department shall charge an initial game farm license fee of $100 and for each year thereafter shall charge an annual renewal fee of $25.

(2) The fees must be deposited in the state special revenue fund for the use of the department for purposes of this part.

History: En. Sec. 6, Ch. 570, L. 1983; amd. Sec. 48, Ch. 281, L. 1983.

87-4-412. Term of license — nontransferability. (1) A game farm license expires on January 31 of the year succeeding the year of issuance.

Application for renewal must be made before a license expires. The department shall renew the license upon payment of the renewal fee if the licensee has not violated any provisions under which the license was granted.

(2) A game farm license is nontransferable.

History: En. Sec. 7, Ch. 570, L. 1983.

87-4-413. Inspection. (1) Upon receipt of an application for a game farm license, the department shall inspect the land proposed to be covered by the license.

(2) After issuance of a game farm license, the department may inspect the game farm or the licensee's game farm books on a scheduled basis or on such other reasonable basis as may be determined necessary.

History: En. Sec. 8, Ch. 570, L. 1983.

87-4-414. Game farm animals as private property. (1) All game farm animals lawfully raised on a licensed game farm are the private property of the licensee.

(2) The licensee may acquire, breed, grow, keep, pursue, capture, kill, use, sell, or dispose of the game farm animals and their progeny in any quantity, at any time of year, and in any manner, as long as he complies with the requirements of this part.

(3) A licensee shall mark each game farm animal in a manner approved by the department of livestock that facilitates ownership identification of animals for inspection, transportation, reporting, and taxation purposes.

(4) Before allowing hunting of any game farm animals on a game farm, the game farm licensee must obtain a game farm shooting license from the department.

(5) Except for importation permits and health certificates required under 81-2-703, laws applicable to game animals do not apply to game farm animals raised on a licensed game farm.

History: En. Sec. 9, Ch. 570, L. 1983; amd. Sec. 2, Ch. 531, L. 1991.

Compiler's Comments

1991 Amendment: Inserted (3) concerning marking game farm animals to facilitate identification for inspection, transportation, reporting, and taxation purposes; and at beginning of (5) inserted exception clause concerning importation permits and health certificates.

87-4-415. Transportation and sale of game farm animals — quarantine. (1) Whenever the licensee of a licensed game farm sells or disposes of one or more game farm animals, he shall, at the same time, deliver to the recipient or otherwise cause to accompany each game farm animal or animals an invoice or bill of sale signed by the licensee or his agent stating the number of the game farm license, the date of acquisition or disposition, the species, the age, sex, and class of game animals disposed of, and the name and address of the transferee. This invoice or bill of sale, along with any required health certifications, authorizes transportation of the game farm animal or animals being sold, transferred, or disposed of.

(2) Within 10 days after movement or sale, the licensee or his agent shall mail postpaid a duplicate of the invoice or bill of sale to the department of livestock and the department.

(3) The department of livestock may quarantine any game farm animal pending inspection and health certification. The department shall advise the department of livestock regarding the importation or transportation of any game farm animal that the department reasonably believes may be infected with a disease specific to wildlife.

History: En. Sec. 10, Ch. 570, L. 1983; amd. Sec. 3, Ch. 531, L. 1991.

Compiler's Comments

1991 Amendment: In (1), near middle of first sentence before "disposition", inserted "acquisition or" and before "disposed" substituted "age, sex, and class of game animals" for "number" and in second sentence, after "bill of sale", inserted "along with any required health certifications"; at beginning of (2) substituted "Within 10 days after movement or sale" for "Within a reasonable time after disposition"; inserted (3) concerning Department of Livestock quarantining game farm animals pending inspection and concerning notification to Department of Livestock by Department of Fish, Wildlife, and Parks of importation or transportation of game farm animal with wildlife disease; and made minor changes in style.

87-4-416. Sale of game parts, meats, and byproducts. (1) A game farm licensee may sell or otherwise dispose of the carcass, parts, or byproducts of a properly identified game farm animal taken from a game farm, only upon preparing an invoice or bill of sale and attaching a copy of it to the carcass or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or byproducts of the game farm animal, the same may be transported within the state to the transferee named on the invoice or bill of sale.

(2) The licensee may sell game farm animals for meat upon compliance with all applicable health laws.

History: En. Sec. 11, Ch. 570, L. 1983.

87-4-417. Records and reporting. (1) Each game farm licensee shall keep and maintain for 3 years accurate written records of all purchases, transfers, and sales of game farm animals showing:

(a) the number of each species of game farm animal purchased by the game farm licensee and from whom purchased;

(b) the number of each species of game farm animal transferred or sold, the date of transfer or sale, and the name and address of the person to whom the transfer or sale was made; and

(c) individual identification of each game farm animal purchased, transferred, or sold.

(2) On or before January 31 of each year, the game farm licensee shall file a report with the director, showing the number and species of game farm animals on hand as of January 1 and the number and species of game farm animals bought or sold during the past year.

History: En. Sec. 12, Ch. 570, L. 1983; amd. Sec. 4, Ch. 531, L. 1991.

Compiler's Comments

1991 Amendment: At beginning of (1)(c), before "identification", inserted "individual".

87-4-418. Unlawful capture. No person may capture, take, or otherwise acquire any game animal in this state for use on a game farm except as provided in 87-4-410.

History: En. Sec. 13, Ch. 570, L. 1983.

87-4-419. Escape from game farm — effect. If a game farm animal escapes from a game farm, the game farm licensee shall immediately notify the department of its escape and shall make every reasonable effort to recapture it. If the escaped animal cannot be recaptured within a reasonable time, it becomes the property of the state.

History: En. Sec. 14, Ch. 570, L. 1983.

87-4-420. Taxation. All game farm animals raised on a game farm may be assessed as personal property of the owner.

History: En. Sec. 15, Ch. 570, L. 1983.

87-4-421. Game farm shooting license. (1) Before a game farm licensee may hunt any game farm animals indigenous to the state of Montana on his game farm, he must first obtain a game farm shooting license.

(2) The department shall issue to a game farm licensee a game farm shooting license on an annual basis for the number of animals that he wishes to hunt.

(3) The department shall issue individual tags to the game farm licensee at a charge of $15 a tag. The tags must contain such information as the department requires. A tag must be attached to each animal immediately after it is killed and must accompany the animal until it is taken to its final destination.

History: En. Sec. 16, Ch. 570, L. 1983.

87-4-422. Rulemaking. (1) The department may adopt and enforce only such rules as are necessary to implement the provisions of this part.

(2) The rules may address but are not limited to classifying of cloven-hoofed ungulates, fencing requirements, reporting requirements, transportation and importation, identification, sale of animal parts, the care and maintenance of game farm animals, and game farm shooting licenses.

History: En. Sec. 17, Ch. 570, L. 1983.

87-4-423. Revocation of license — penalty. (1) A game farm license may be revoked for failure to operate the game farm according to the provisions of this part or rules adopted under this part.

(2) Upon discovery of a violation, the department shall give notice of the violation to the licensee, with a statement that the violation must be corrected within 30 days of the notice, unless a longer period is approved by the department.

(3) Upon failure of the licensee to correct the violation, the department may institute revocation proceedings. If the department institutes revocation proceedings, it shall provide reasonable notice and opportunity for a hearing to the licensee. After hearing and upon proof of violation, the department may revoke the game farm license.

(4) In addition to the revocation of a license allowed by this section, a person who violates this part or a rule adopted under this part is subject to a fine of not more than $500 or imprisonment in the county jail for not more than 1 year, or both.

History: En. Sec. 18, Ch. 570, L. 1983; amd. Sec. 5, Ch. 531, L. 1991.

Compiler's Comments

1991 Amendment: Near middle of (2), after "statement", deleted "of a specific time in which" and at end, after "corrected", inserted language concerning a 30-day period to correct violation unless Department approves longer period; inserted (4) concerning fine and imprisonment in addition to license revocation for violations; and made minor change in style.

87-4-424. Department restrictions on importation of certain species. The department or the department of livestock may restrict from importation for purposes of game farming any species or subspecies and their hybrids with native species that are determined through scientific investigation to pose a threat to native wildlife or livestock through nonspecific genetic dilution, parasites, or disease.

History: En. Sec. 7, Ch. 531, L. 1991.

Part 5

Shooting Preserves

87-4-501. Authorization for licenses, permits, rules, and regulations. The department is hereby authorized and empowered to issue operating licenses or permits for shooting preserves, which may be privately owned and operated, and to make such rules and regulations as may be necessary and proper in carrying out the purposes of this part.

History: En. Sec. 1, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1601.

87-4-502. Size, location, and posting of preserves. Operating licenses or permits may be issued to any person, partnership, association, or corporation for the operation of shooting preserves that meet the requirements hereinafter prescribed:

(1) Each shooting preserve shall be restricted to not more than 1,280 contiguous acres and shall not be located closer than 10 miles from another preserve and in areas which will not substantially reduce hunting areas available to the public as determined by the department.

(2) The exterior boundaries of each shooting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of 250 feet or less.

History: En. Sec. 2, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1602.

87-4-503. Fees. Fees for shooting preserve licenses or permits shall be $50 per year for the first 160 acres of shooting preserve area, plus $20 per year for each additional 160 acres or parts thereof.

History: En. Sec. 4, Ch. 265, L. 1965; R.C.M. 1947, 26-1604.

87-4-504. Bird license or stamp required. All persons hunting on shooting preserves must have a valid resident or nonresident upland game

bird license or a 3-day nonresident shooting preserve bird hunting stamp issued under 87-2-404.

History: En. Sec. 11, Ch. 265, L. 1965; R.C.M. 1947, 26-1611; amd. Sec. 3, Ch. 105, L. 1987; amd. Sec. 1, Ch. 371, L. 1991.

Compiler's Comments

1991 Amendment: At end inserted clause relating to 3-day nonresident shooting preserve bird hunting stamp.

87-4-505. Commercial and membership licenses and permits. Each shooting preserve license or permit issued by the department shall designate whether or not the preserve is open to the public on a commercial basis or is restricted to a membership or other limited group. In the latter case, the license or permit shall specify that the area is a restricted shooting preserve. The department shall maintain accurate listings of the names, addresses, and the location of the property of all persons to whom shooting preserve licenses or permits are issued. Said lists shall be made available in their entirety to anyone requesting same and shall specify whether the preserves are public or private.

History: En. Sec. 12, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1612.

87-4-506. Revocation of license or permit and reissuance. The department may revoke any shooting preserve license or permit issued under the authority of this part when the licensee has violated any of the provisions of this part or any rule or regulation of the department. After such revocation, a new license or permit may be issued if in the discretion of the department the circumstances so warrant.

History: En. Sec. 13, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1613.

87-4-507 through 87-4-520 reserved.

87-4-521. Duration of season. The season established for shooting preserves is the 7-month period beginning September 1 and ending March 31.

History: En. Sec. 7, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1607; amd. Sec. 2, Ch. 371, L. 1991.

Compiler's Comments

1991 Amendment: At beginning deleted "In order to give a reasonable opportunity for a fair return on a sizeable investment", after "preserves" deleted "shall be no less than 120 consecutive days, as designated by the department, during", changed season from 4-month to 7-month period, and changed season's end from December to March 31; and made minor changes in style.

87-4-522. Game hunted in preserve. (1) Game which may be hunted under this part shall be confined to artificially propagated pheasants, quail, chukar partridges, turkeys, and such other species as the department may add from time to time.

(2) A minimum number of stock of each species to be hunted on a shooting preserve shall be released on the licensed area during the shooting preserve season. The minimum number of stock of each species to be released shall be determined by the department before the commencement of the season.

History: En. Sec. 3, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1603.

87-4-523. Amount of game recoverable. The operating licenses or permits issued by the department shall entitle holders thereof and their members, guests, or patrons to recover not more than 80% of the total number of each species of game released on the premises each year.

History: En. Sec. 5, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1605.

87-4-524. Preserve operators to establish shooting restrictions. Except for required compliance with the game recovery restriction provided in 87-4-523, shooting preserve operators may establish their own shooting limitations and restrictions on the age, sex, and number of each species that may be taken by each person.

History: En. Sec. 6, Ch. 265, L. 1965; R.C.M. 1947, 26-1606.

87-4-525. Tagging of game. All harvested game shall be tagged with a self-sealing tag prior to being either consumed on the premises or removed therefrom, such tags to remain affixed until the game actually is prepared for consumption. The department shall furnish tags at nominal cost to shooting preserve operators, the tags to be numbered consecutively and dated by year of issuance.

History: En. Sec. 8, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1608.

87-4-526. Registration of shooters. Each shooting preserve operator shall maintain a registration book listing the names, addresses, and hunting license numbers of all shooters; the date on which they hunted; the amount of game and the species taken; and the tag numbers affixed to each carcass. An accurate record likewise must be maintained of the total number, by species, of game raised and/or purchased and the date and number of all species released. These records shall be open to inspection by a delegated representative of the department at any reasonable time and shall be the basis upon which the game-recovery limits in 87-4-523 shall be determined.

History: En. Sec. 9, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1609.

87-4-527. Wild game on preserve. Any wild game found on shooting preserves may be harvested in accordance with applicable license, game, and hunting laws pertaining to open seasons, bag and possession limits, and rules, as are established regularly by the department and the U.S. fish and wildlife service.

History: En. Sec. 10, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1610; amd. Sec. 3, Ch. 371, L. 1991.

Compiler's Comments

1991 Amendment: Near beginning, after "applicable", inserted "license"; and made minor changes in style.

87-4-528. Unscheduled inspections by department. The department shall conduct unscheduled inspections of all shooting preserves licensed under

this part to ensure that pertinent statutes as well as the rules and regulations of the department are being followed and obeyed.

History: En. Sec. 14, Ch. 265, L. 1965; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-1614.

Sub-Chapter 15

Game Farms

12.6.1501 APPLICATION FOR AND RENEWAL OF GAME FARM LICENSE (1) Application for a game farm license shall be made in writing on a form prescribed by the department of fish, wildlife, and parks.

(2) The applicant shall include a $100 license fee with the initial application.

(3) A game farm license may be renewed prior to January 31 upon payment of a fee of $25.

(4) All game farm licenses expire on January 31 following the date of issuance.

(5) A game farm operator whose license has expired for more than one year will be considered a new applicant and pay the $100 initial application fee accompanied by an initial application form.

(6) The department may not renew a game farm license until the licensee has submitted the report described by section 87-4-417, MCA.

(7) If a person is issued more than one license under sections 87-4-406 through 87-4-423, sections 87-4-901 through 87-4-916, and sections 87-4-1001 through 87-4-1013, MCA, the total assessment for initial fees or for renewal fees for all licenses issued to such person may not exceed the amount of the largest individual license fee.

(8) No initial license fee shall be assessed against any person who held a game farm license on October 1983, unless there is a break in licensing of more than one year. (History: Sec. 87-4-422 MCA; IMP, Sec. 87-4-416 MCA; NEW, 1984 MAR p. 250, Eff. 1/27/84.)

12.6.1502 PURCHASE AND SALE OF GAME (IS HEREBY REPEALED) (History: Sec. 87-4-422 MCA; IMP, Sec. 87-4-416 MCA; NEW, 1984 MAR p. 250, Eff. 1/27/84; REP, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1502A BILL OF SALE/TRANSPORTATION (1) Game farm animals to be moved, transferred, bought or sold must be inspected by a department of livestock brand inspector prior to the transaction.

(2) The four copies of the bill of sale/transportation completed upon inspection of game farm animals must be dispensed as follows:

(a) original to the department of livestock;

(b) second copy to department of fish, wildlife, and parks;

(c) third copy to purchaser or transferee, which must also accompany the animals to their destination; and

(d) fourth copy retained by the game farm operator at origin.

(3) The licensee must account for all bill of sale/transportation receipts.

(4) Transactions must be recorded in the record book(s) of the affected game farm licensee(s) within five days of the transaction. (History: Secs. 81-3-202, 87-4-422 MCA; IMP, Secs. 87-4-415, 81-3-210, 87-4-422 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1503 FENCING REQUIREMENTS (IS HEREBY REPEALED) (History: Sec. 87-4-422 MCA; IMP, Sec. 87-4-416 MCA; NEW, 1984 MAR p. 250, Eff. 1/27/84; REP, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1503A FENCING REQUIREMENTS (1) After May 15, 1992, applicants for a game farm license must comply with the following fencing standards:

(a) Conventional perimeter fences must be, at a minimum, eight feet above ground level for their entire length. The bottom six feet must be mesh of sufficient size to prevent wild animals from entering and game farm animals from escaping. Supplemental wire required to attain a height of 8 feet may be smooth, barbed, or woven wire (at least 12 1/2 gauge) with strands spaced not more than six inches apart.

(b) Perimeter fences constructed of high tensile wire must be supported by a post or a stay at minimum intervals of 8 feet.

(c) Conventional perimeter fences must be at least 12 1/2 gauge woven wire, 14 1/2 gauge high-tensile woven wire, chain link, non-climbable woven fence, or other fence approved by the department of fish, wildlife, and parks.

(i) If the wire used is not a full 8 feet in height, it must be overlapped one row and securely fastened at every other vertical row or woven together with cable.

(d) Electric fencing materials may be used on perimeter fences only as a supplement to conventional fencing materials.

(e) All gates in the perimeter fence must be self-closing, equipped with two locking devices and installed in locations that have been approved by the department of fish, wildlife, and parks. Double gates may be required at points in the perimeter fence subject to frequent vehicle traffic that is not related to operation of the game farm.

(f) Posts used in the perimeter fence must be:

(i) of material of sufficient strength to keep game farm animals securely contained and wild animals from entering;

(ii) extended at least 8 feet above ground level;

(iii) spaced no more than 24 feet apart with stays or supports at 8 foot intervals between the posts;

(iv) braced with wood or with suitable metal material properly set in concrete, at all corners.

(2) Game farm perimeter fences in place as of May 15, 1992 that comply with the previously existing 7 1/2 foot height requirement and have been found to be adequate are not subject to the requirements of this rule (1)(a) through (f).

(a) If fences do not comply with the previously existing 7 1/2 foot height requirement or when reconstruction or replacement of existing 7 1/2 perimeter fences becomes necessary, they shall be constructed to meet the fencing standards outlined in (1).

(3) All open topped enclosures holding game farm carnivores must meet the following requirements:

(a) a perimeter fence at least 8 feet in height constructed of at least 9 gauge woven wire chain link or solid material that cannot be destroyed by the species contained therein;

(b) the perimeter barrier must be supported by a post or a stay at 10 foot intervals;

(c) an overhang of barbed wire or electric wire installed at the top of the perimeter fence or other configuration that precludes escape;

(d) buried mesh wire (minimum 11 gauge) extending laterally 3 feet to the inside of the enclosure for the length of the perimeter fence (to prevent carnivores from digging under the fence and escaping);

(e) any trees or obstacles that would allow carnivores to exit or enter the enclosure must be removed.

(4) All cages holding game farm carnivores must be of sufficient size (height, length and width) to prevent overcrowding and allow exercise and must meet the following requirements:

(a) a cage top constructed of at least 11 gauge woven wire or chain link;

(b) a floor made of cement or concrete at least 3 inches thick into which metal fence posts are permanently secured or a floor that consists of chain link or similar material that will preclude the animal digging through the floor to escape.

(5) Gates on carnivore enclosures and cages must be self-closing and have double locks.

(6) Gates are prohibited in fences that are shared in common by neighboring game farms.

(7) The fence must be maintained in a game-proof condition at all times to prevent animals from escaping from or entering the game farm premises. If game farm animals or wild animals do pass through, under, or over the fence for any reason, the licensee must supplement the fence to prevent continued passage. (History: Sec. 87-4-422 MCA; IMP, Secs. 87-4-409, 87-4-422 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1504 REPORTING (IS HEREBY REPEALED) (History: Sec. 87-4-422 MCA; IMP, Sec. 87-4-416 MCA; NEW, 1984 MAR p. 250, Eff. 1/27/84; REP, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1504A GAME FARM REPORTING (1) Reports must be recorded on the forms provided by the department of fish, wildlife, and parks and must be filled out completely and accurately.

(2) No pages in the game farm record book may be discarded. Voided pages must be sent to the department of fish, wildlife, and parks (Helena office).

(3) The annual game farm report must be submitted to the department of fish, wildlife, and parks (Helena office) by January 31.

(4) Renewal of a game farm license is contingent upon timely and accurate completion and submittal of required reports.

(5) Game farm record books and reports must be kept on the premises of the licensed game farm, residence of the game farm operator or manager or his/her principal place of business, so long as that location is within the state of Montana. The designated location of the game farm record books and reports must be declared to the department of fish, wildlife, and parks (Helena office).

(6) Purchases, sales, escapes, recaptures, deaths and births must be reported in the game farm record book provided by the department of fish, wildlife, and parks.

(7) Game farm operators are requested to notify the department of fish, wildlife, and parks (regional warden captain), in advance of his/her annual animal census. (History: Sec. 87-4-422 MCA; IMP, Secs. 87-4-417, 87-4-422 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1505 RECOVERY OF ESCAPED ANIMALS (IS HEREBY REPEALED) (History: Sec. 87-4-422 MCA; IMP, Sec. 87-4-416 MCA; NEW, 1984 MAR p. 250, Eff. 1/27/84; REP, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1506 CLOVEN-HOOFED ANIMALS AS GAME FARM ANIMALS (1) All animals of the order Artiodactyla, except the families suidae, camelidae, and hippopotamidae, are game farm animals under the definition described in section 87-4-406(4), MCA, provided that the following animals in the families suidae and bovidae are not considered game farm animals under section 87-4-406(4), MCA: domestic pigs, domestic cows and yaks, domestic sheep, domestic goats which are not naturally occurring in the wild in its country of origin, and bison. (History: Sec. 87-4-422 MCA; IMP, Sec. 87-4-416 MCA; NEW, 1984 MAR p. 250, Eff. 1/27/84; AMD, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1507 DEFINITIONS (1) "Bill of sale/transportation" is a form utilized by brand inspectors of the department of livestock to document sale and movement of game farm animals.

(2) "Conventional fence" is the woven or welded wire fence used to enclose game farm animals.

(3) "Disease, communicable" means a disease that can spread from one animal to another or to humans.

(4) "Disease, dangerous" means a disease that can cause catastrophic animal loss or risk to human health.

(5) "Domestic" means those populations of animals which through long association with humans have been selectively bred to a degree that has resulted in genetic changes affecting the coloration, temperament, conformation or other attributes of the species to an extent that makes them unique and distinguishable from wild individuals of their species.

(6) "Game farm" means the enclosed land area upon which game farm animals may be kept. 87-4-406 (3), MCA.

(7) "Handling facility" means an enclosure that includes an animal restraining device (such as a squeeze chute) to facilitate inspection and handling of individual game farm animals.

(8) "High tensile fence" means a fence eight feet above ground composed of wire capable of maximum stretching.

(9) "Holding facility" means a fenced enclosure (used in conjunction with the handling facility) to hold game farm animals for individual inspection, marking or treatment.

(10) "Hybrid" means an animal produced from a mating between two animals of different species or subspecies.

(11) "Immediate" means without delay.

(12) "Mingling" means mixing game farm animals together with other animals.

(13) "Quarantine area" means an approved enclosure (separate from the holding and handling facilities) used to isolate newly acquired or diseased game farm animals.

(14) "Prohibited game farm animals" means animals that are prohibited from importation for purposes of game farming pursuant to section 87-4-424, MCA.

(15) "Restricted game farm animals" means animal species subject to specific importation restrictions. (History: Secs. 81-1-102, 81-3-202, 87-4-422 MCA; IMP, Secs. 81-3-210, 81-2-102, 87-4-415, 87-4-422 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1508 GAME FARM DESCRIPTION (1) A game farm operator must provide a scaled drawing or map of the proposed exterior boundary, holding and handling facilities, location of quarantine area, and proposed location of all gates, at the time of application for a game farm license. (History: Sec. 87-4-422, MCA; IMP, Sec. 87-4-409 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1509 HOLDING AND HANDLING FACILITIES (1) All game farm operators must have holding and handling facilities that enable handling, marking and individual identification of all game farm animals on the premises. A permanent or portable handling facility must be on the game farm at all times. (History: Secs. 87-4-422, 81-1-102, 81-3-202 MCA; IMP, Sec. 87-4-406, 87-4-409, 81-3-203 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1510 QUARANTINE AREA (1) Every game farm must have an approved quarantine facility within its exterior boundary or submit an action plan to the department of livestock that guarantees access to an approved quarantine facility within the state of Montana.

(a) An approved quarantine facility is one that meets criteria set by the state veterinarian of the department of livestock.

(b) The quarantine area must meet the tests of isolation, separate feed and water, escape security, and allowances for the humane holding and care of its occupants for extended periods of time.

(2) Should the imposition of a quarantine become necessary, the game farm owner must provide an on-site quarantine facility or make arrangements at his or her own expense to transport the animals to the approved quarantine facility named in the quarantine action plan. (History: Sec. 81-2-103 MCA; IMP, Sec. 81-2-102 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1511 LICENSING LIMITATION (1) Expansion of existing game farm facilities (construction of buildings or new pastures) outside the confines of a currently approved perimeter fence must be approved by the department of fish, wildlife, and parks prior to use for any game farm activity.

(2) Game farm license applications or expansions are subject to public notification and a public comment process prior to a decision on the application. (History: Sec. 87-4-422 MCA; IMP, Secs. 87-4-409, 87-4-424 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1512 NEW SPECIES (1) To add a new game farm animal species to an existing game farm, the licensee must submit a new application listing the species desired. The new species may not be acquired or possessed until the department approves the new application, and inspects and approves the facility for occupancy by the new species.

(2) The game farm licensee must obtain, purchase, board, or lease game farm animals from properly licensed or legal sources. (History: Sec. 87-4-422, MCA; IMP, Sec. 87-4-409 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1513 GAME FARM ANIMAL IDENTIFICATION: CLOVEN HOOFED UNGULATES (1) Game farm animals owned by or transferred to any game farm within the state of Montana must be individually identified by the method prescribed by the department of fish, wildlife, and parks and the department of livestock.

(2) Every game farm animal must be marked with a tattoo registered to the game farm licensee (original owner) by the department of livestock. The tattoo must be placed on the left ear of the animal.

(3) Every game farm animal must in addition be marked with an ear tag issued by the department of fish, wildlife, and parks. Ear tags must be placed in a location specified by the department of fish, wildlife, and parks.

(4) Tags or identification numbers must be requested from the department of fish, wildlife, and parks, enforcement division, Helena 444-2452, during business hours. Licensee must state the number and sex of animals to be marked. A department of fish, wildlife and parks representative will deliver the tags/identification to the game farm operator.

(5) Game farms that maintain animals for the primary purpose of photography or filming have the option of using another form of individual identification as an alternative to the designated ear tag. The proposed manner in which such animals will be individually identified must be submitted by the owner to the department of fish, wildlife, and parks for approval.

(6) When loss of an animal identification tag is discovered, the licensee must notify the department of fish, wildlife, and parks immediately. The animal must be re-tagged with approved identification as soon as possible; but in no case later than January 31 of the year following the loss.

(7) Identification assigned to an individual game farm animal may not be transferred to any other animal.

(8) Any individual identification marker issued by the department of fish, wildlife, and parks that is found to have become detached from the animal for which it was issued must be returned to the department of fish, wildlife, and parks (Helena office) immediately.

(9) All newborn game farm animals must be individually marked by October 1 or prior to removal of the animal from the game farm premises, whichever is earlier.

(a) Carnivores must be identified with the proper tattooing method as required by 87-1-231, MCA, ARM Rules 12.6.1901 et seq. Tattoo numbers must be requested from the department, enforcement division, Helena, 444-2452, during business hours.

(10) Game farm animals acquired from another state/province must be marked with a Montana ear tag within 30 days of importation. (History: Secs. 81-3-202, 87-4-422 MCA; IMP, Secs. 81-3-203, 87-4-414, 87-4-415, 87-4-422 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1514 TRANSPORTATION (1) Game farm licensee must verbally notify the department of livestock prior to import, transport, transfer or disposal of any game farm animal.

(2) The third copy (to purchaser or transferee) of the bill of sale/transportation must accompany the import, transport, transfer or disposal of game farm animals (both live and dead).

(3) Game farm animals may be transported from out of state through Montana if:

(a) animals proceed directly through Montana with no intent to unload;

(b) an official health certificate is obtained from the state of origin to show destination, origin, and proof of ownership of any game farm animals being transported;

(c) animals are not sold, bartered, traded, or otherwise transferred while in the state. (Transfer does not include moving animals to another transport vehicle);

(d) in emergencies, game farm animals in transit are unloaded and temporarily held with prior approval and in compliance with quarantine rules promulgated by the department of fish, wildlife, and parks and the department of livestock.

(4) All game farm animals transported within the state must be marked with identification approved by the department of fish, wildlife, and parks and the department of livestock, and accompanied by a copy of the bill of sale and tattoo inspection certificate.

(5) Game farm animal gametes (ova & semen) must be handled, purchased, sold or transferred under the same rules and laws as game farm animals. (History: Secs. 81-3-202, 81-2-707, 87-4-422 MCA; IMP, Secs. 81-3-203, 81-3-210, 81-2-703, 87-4-415, 87-4-422 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1515 IMPORTATION (1) A game farm licensee may import animals into Montana only after obtaining the following:

(a) an importation permit from the animal health division, department of livestock, 406-444-2976;

(b) a game farm license from the department of fish, wildlife, and parks that is valid for the species to be imported;

(c) an examination by an accredited veterinarian accompanied by an approved health certificate. Minimum specific disease test results and health statements that must be included on a health certificate for game farm animal(s) include:

(i) all game farm animals in the shipment tested negative for tuberculosis, brucellosis and other diseases as prescribed by the department of livestock and

(ii) the following statement signed by an accredited veterinarian in the state/province of origin: "To the best of my knowledge, animals listed herein are not infected with paratuberculosis (Johnes Disease) and have not been exposed to animals infected with paratuberculosis. To the best of my knowledge, the premises of origin have not been the site of a significant disease outbreak in the previous 24 months that was not contained and extirpated using recognized disease control standards."

(2) Additional disease testing may be required by written notification from the department of fish, wildlife, and parks or the state veterinarian prior to importation if there is reason to believe other diseases, parasites or other health risks are present (i.e. a recent outbreak of a disease not listed in this section).

(3) All elk (Cervus elaphus) must be tested prior to importation for evidence of red deer hybridization. Any animal testing positive for red deer hybridization shall not

be brought into the state. Any health certificate required by Title 81, chapter 2, MCA, to accompany imported elk found to be negative for red deer hybridization must include a certification by an accredited veterinarian that every elk in the shipment has tested negative for red deer hybridization.

(4) Imported animals must be isolated from other animals at an approved quarantine facility for at least 30 consecutive days after entry into the state.

(5) The department of fish, wildlife, and parks finds that the following species, hybrids, or viable gametes (ova and semen), are detrimental to existing wildlife and their habitats through genetic dilution, parasites, disease, habitat degradation or competition. Possession of the following prohibited species, hybrids or viable gametes is prohibited except as authorized by the department of fish, wildlife, and parks in writing:

(a) In the family Bovidae, all members of the following genera and hybrids thereof:

Subfamily Caprinae
Rudicapra (chamois)
Hemitragus (tahr)
Capra (goats, ibexes--except domestic goat, Capra hircus)
Ammotragus (Barbary sheep or Aoudad)
Ovis (only the mouflon species, Ovis musimon)

Subfamily Hippotraginae
Oryx (oryx and gemsbok)
Addax (addax)

Subfamily Reduncinae
Redunca (reedbucks)

Subfamily Alcelaphnae
Connochaetes (wildebeests)
Alcelaphus (hartebeests)
Damaliscus (sassabies: blesbok, bontebok, topi)

(b) In the family Cervidae, all of the following species and hybrids thereof:

Moose (Alces alces)
All red deer (Cervus elaphus elaphus), and all hybrids with North American elk (C. elaphus canadensis, roosevelti, manitobensis, nannodes and nelsoni).

Axis deer (Axis axis)
Rusa deer (Cervus timorensis)
Sambar deer (Cervus unicolor
Sika deer (Cervus nippon)
Roe deer (Capreolus capreolus and Capreolus pygarus)

(c) All wild species in the family Suidae (Russian boar, European boar) and hybrids thereof.

(d) In the family Tayassuidae, the collared peccary (javelina) (Tayassu tajacu) and hybrids thereof.

(6) These prohibited species may not be bred, released, imported, transported, sold, bartered or traded within the state except as authorized in writing by the department of fish, wildlife, and parks. The prohibited animals may be transported out of the state in compliance with the game farm rules of the receiving state and federal laws.

(7) Persons with proof of possession prior to effective date of these rules may possess prohibited species for the life of the animals.

(8) The departments of fish, wildlife, and parks and livestock have designated the following game farm animals as "restricted species", on the basis of specific animal health risks that they pose to wildlife and/or domestic livestock: white-tailed deer (Odocoileus virginianus) and reindeer (caribou) (Rangifer sp.).

(a) Importation of white-tailed deer into Montana is allowed only for game farms currently licensed for white-tailed deer and which currently legally possess white-tailed deer. The only white-tailed deer that may be permitted entry are those originating from states west of the 100th meridian where meningeal worm is not endemic and which meet the following criteria:

(i) All animals in the shipment are certified free of meningeal worm parasites and dorsal spined larvae as determined by the currently recognized Baerman fecal flotation protocol whereby fecal samples are collected from each animal in the shipment at 30 day intervals for a total of six samplings per animal while the shipment is held in strict 180 day isolation at origin in the absence of any anthelmintic therapy; and the fecal samples are analyzed for dorsal spined larvae at an approved laboratory promptly after each collection. If any animal in the shipment is found positive on any of the six tests the entire shipment shall be rejected for importation; or

(ii) All animals in the shipment are certified free of meningeal worm parasites and dorsal spined larvae using new technology recognized capable of certifying cervids free of meningeal worm.

(b) Importation of reindeer (Rangifer sp.) into Montana is prohibited except under the following conditions:

(i) All animals in the shipment originate in a herd located south of the Canada/U.S. border that is certified brucellosis (B. suis and B. abortus) and tuberculosis free as determined by whole herd testing; and

(ii) The destination of these animals is not located west of the continental divide.

(9) Reclassification of any species listed as prohibited in part (5) or restricted in part (8) is contingent on compelling scientific information indicating that risks posed by these species to native wildlife populations and/or domestic livestock can be eliminated or managed effectively through application of new diagnostic or management technologies.

(10) Any diseased, prohibited or restricted animal determined by the department of fish, wildlife, and parks or state veterinarian to pose a significant threat to the state's wildlife resources, domestic animals or human health may be destroyed or held in quarantine at the owner's expense until disposition is determined. Possession or transfer of such animals is prohibited if contrary to the determination of department of fish, wildlife, and parks or department of livestock. (History: Secs. 81-2-707, 87-4-422 MCA; IMP, Secs. 81-2-703, 87-4-415, 87-4-422, 87-4-424 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1516 DUTY TO REPORT CONTAGIOUS DISEASES (1) Any person, including a game farm licensee who has reason to believe that game farm animals have or have been exposed to a dangerous or communicable disease, must give notice to the department of livestock immediately.

(2) The department of livestock will determine when destruction of animals, a quarantine or disinfection is required at any commercial game farm. If the department of livestock determines that destruction, quarantine or disinfection is required, a written order will be issued to the licensee describing the procedure to be followed. Required disinfection of holding facilities must be completed at the owner's expense. If the owner disagrees with the department's determination, he or she has the right to appeal the decision to the board of livestock, provided notice of such appeal is given within 48 hours of receipt of the order. (History: Sec. 81-2-103 MCA; IMP, Sec. 81-2-107 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1517 ESCAPED GAME FARM ANIMALS (1) The department or any peace officer may seize, capture, or destroy game farm animals that have escaped the possessor's control, and which are determined to be detrimental to native wildlife, habitat or other wildlife resources by threat of predation, spread of disease or parasites, habitat competition, interbreeding with native wildlife, or other significant damage.

(2) Escapes must be reported immediately to the department of fish, wildlife and parks.

(3) The licensee must recapture or destroy the animals within ten days.

(4) If the licensee is unable to recapture the animals within ten days, the department of fish, wildlife and parks may destroy them.

(5) The licensee must notify the department of fish, wildlife and parks immediately of the recapture or death of an escaped animal.

(6) The department of fish, wildlife, and parks may inspect a recaptured animal before it is returned to the game farm. (History: Sec. 87-4-422, MCA; IMP, Sec. 87-4-419 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1518 CONFISCATION PROCEDURES (1) The department of fish, wildlife, and parks may confiscate or seize any unlawfully possessed game farm animals.

(2) The costs of any confiscations or seizures of game farm animals may be charged to the owner of the animals.

(3) Any game farm licensee whose license is revoked must lawfully dispose of game farm animals in his or her possession within a period designated by the department of fish, wildlife, and parks. Failure to comply with this time limit will result in confiscation of the game farm animals by the department and/or citations for criminal conduct. (History: Sec. 87-4-422 MCA; IMP, Secs. 87-4-418, 87-4-424, 87-4-422, 87-4-423 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

12.6.1519 WAIVER (1) The departments may waive any rule they find will constitute an undue hardship to an individual game farm operator. A game farm operator wishing to receive a waiver of any rule must make application to both departments, stating with specificity why he or she has a compelling need to have a rule waived and showing that the grant of a waiver will not threaten or adversely affect any domestic or wild animal. The departments, in their discretion, may waive any rule. (History: Secs. 81-2-102, 81-3-202, 87-4-415, 87-4-422 MCA; IMP, Secs. 81-3-210, 81-2-102, 87-4-422 MCA; NEW, 1992 MAR p. 1017, Eff. 5/15/92.)

APPENDIX B

LEGAL DESCRIPTION OF GAME FARM

- GAME FARM APPLICATION
- BUSINESS PLAN FOR GAME FARM
- LOCATION/MAPS

MONTANA FENCE & Development Co.

7316 South Cottonwood Road
Bozeman, Montana 59715
406-585-2222

JAN 15 1993

January 14, 1993

State of Montana
Department of Fish, Wildlife, and Parks
Bozeman, MT 59715

To Whom It May Concern:

It is my plan to begin with five cows and one bull. I intend to build elk pasture A (as shown in the enclosed diagram) and the working facilities as soon as ground is thawed this spring. It is my intention to expand the operation as the numbers grow--elk pasture B to be constructed in the spring of 1994. I also plan to purchase adjacent land and enlarge the operation in the years to follow.

I own and operate Montana Fence and Development and have worked for many of the elk ranchers in the state. I am familiar with the fencing requirements and working facilities since I have assisted in building them in the past. If you have any questions, please feel free to call.

Sincerely,

Mark Mitchell

MM:pm

Enclosures

Fee: $100 _____ Form FG-11.1

STATE OF MONTANA

DEPARTMENT OF FISH, WILDLIFE, AND PARKS

APPLICATION FOR GAME FARM LICENSE

Name Mark and Margaret Mitchell
(Company or Corporation)

Address 7316 South Cottonwood Road

Bozeman, Montana 59715

If nonresident, name and address of resident Montana agent _____

If a corporation, full name and address of all stockholders owning 10 percent or more stock: _____

(Use additional sheets if necessary)

Exact legal description of the land on which the game farm is to be located:

Tract C: Certificate of Survey # 1035. N 1/2, SW 1/4, NW 1/4, Sec. 27, T 2 S, R 5 E, PMM,

County Gallatin

Above described property is legally under my control via: Fee Title _____

Contract for Deed _____ Lease _____ Other Deed of Trust

Species of animals to be kept or reared on proposed game farm: Elk

Name and address of the source from which applicant will acquire game farm animals Undetermined.

Has above described property been fenced to prevent public game animals from mixing with game farm animals? Under construction Attach Diagram of fencing.

Are any game animals present on the enclosed lands for which the license will be issued? No Species and number _____

I have answered correctly all questions to the best of my ability.

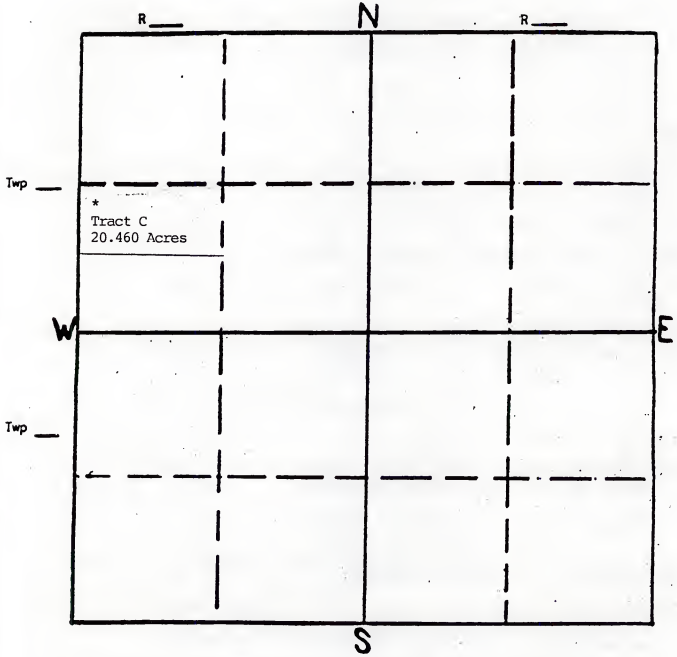
January 14, 1993
Date

Mark Mitchell
Applicant Signature

Margaret H. Mitchell

Scale 1" = _____

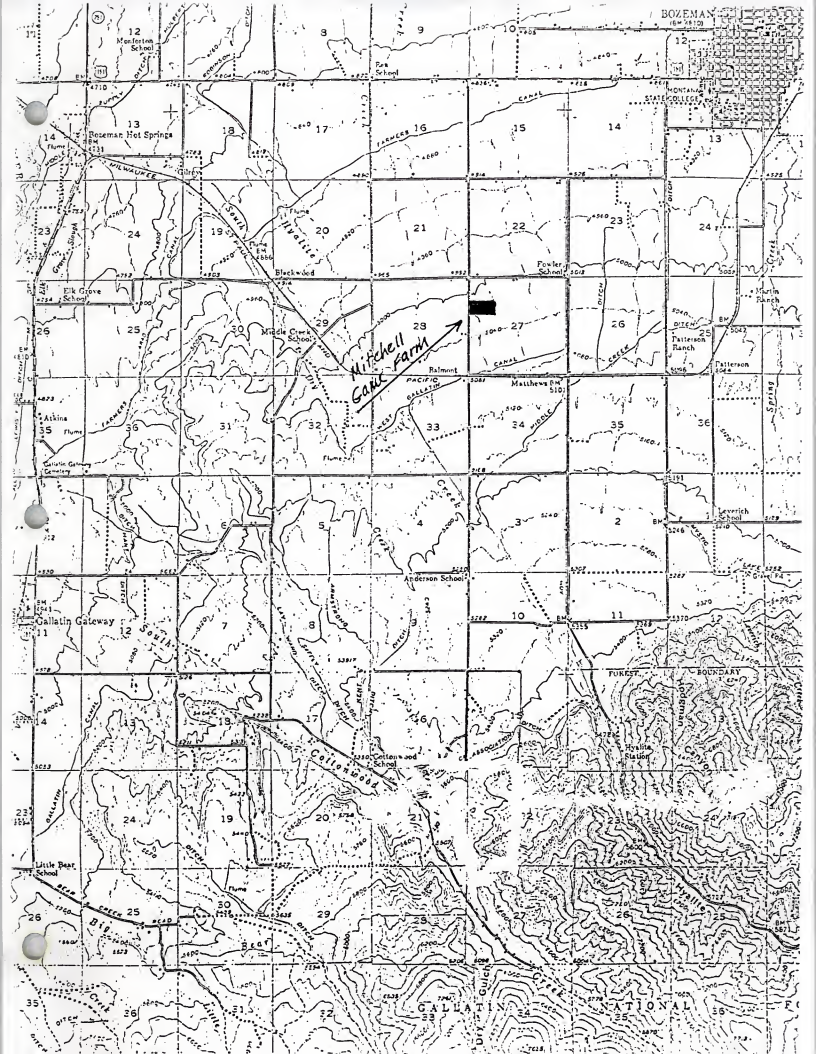
Large square represents _____ section(s)

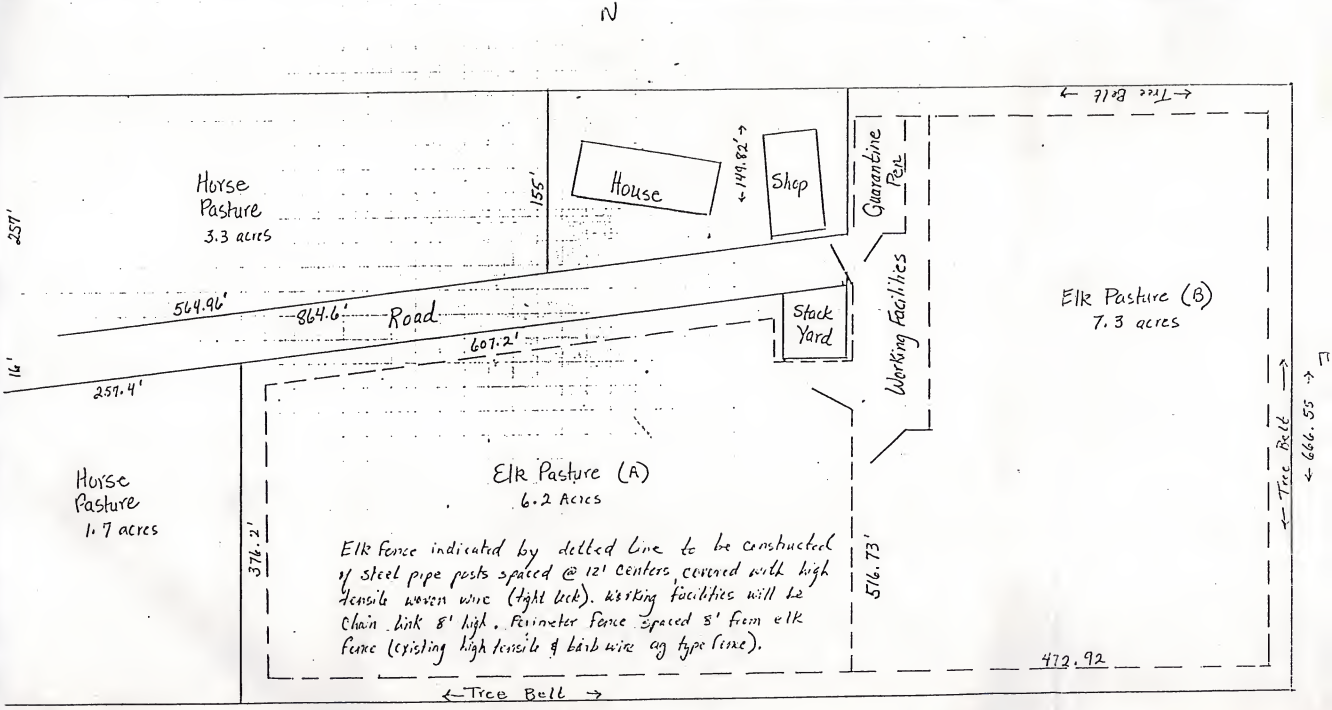


* Tract C: Certificate of Survey #1035 N1/2 SW 1/4 NW 1/4 Sec. 27, T 2 S, R 5 E, PMM, Gallatin County. (20.460 Acres).

Draw in location of game farm to scale on lands owned or leased by applicant. Fill in legal subdivision, Section number, Township and Range.

Give exact acreage contained within pen.


Mitchell Farm
Gallatin Gateway
Bozeman Hot Springs
Elk Grove School
Blackwood
Middle Creek School
Fowler School
Martin Ranch
Patterson Ranch
Patterson
Balmont
Matthews Bin Site
Anderson School
Cottonwood School
Hyalite Station
Little Bear School
Big Ditch
Dry Gulch
Creek
Gallatin
Bozeman
Montana State College
Fork School
Manterton School
Asbina
Gallatin Gateway Cemetery
Fowlerton
Kenrich School
Forest Boundary
Gallatin National


N
Horse Pasture 3.3 acres
257'
155'
House
149.82'
Shop
Guarantine Pen
Working Facilities
Elk Pasture (B) 7.3 acres
564.96'
864.6'
Road
607.2'
Stock Yard
16'
257.4'
Horse Pasture 1.7 acres
Elk Pasture (A) 6.2 Acres
Elk Fence indicated by dotted line to be constructed of steel pipe posts spaced @ 12' centers, covered with high tensile woven wire (tight lock). Working facilities will be Chain link 8' high. Perimeter Fence spaced 8' from elk fence (existing high tensile & barb wire ag type fence).
374.2'
516.73'
472.92
Tree Belt
666.55'
Tree Belt
1337.52'
S

[Space Above This Line For Recording Data]

DEED OF TRUST

THIS DEED OF TRUST ("Security Instrument") is made on February 25, 19 92. The grantor is Mark J. Mitchell and Margaret H. Mitchell ("Borrower"). The trustee is American Land Title Company ("Trustee"). The beneficiary is Valley Bank of Belgrade, which is organized and existing under the laws of Montana, and whose address is P.O. Box 106, Belgrade, MT 59714 ("Lender"). Borrower owes Lender the principal sum of Fifty Thousand and No/100---------- Dollars (U.S. $ 50,000.00----------). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on August 25, 1992. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in Gallatin County, Montana:

Tract C of Certificate of Survey No. 1035, located in the NW¼ of Section 27, Township 2 South, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana

which has the address of 7316 South Cottonwood Road [Street], Bozeman [City],
Montana 59715 [Zip Code] ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest; Prepayment and Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. Funds for Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") equal to one-twelfth of: (a) yearly taxes and assessments which may attain priority over this Security Instrument; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard insurance premiums; and (d) yearly mortgage insurance premiums, if any. These items are called "escrow items." Lender may estimate the Funds due on the basis of current data and reasonable estimates of future escrow items.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay the escrow items. Lender may not charge for holding and applying the Funds, analyzing the account or verifying the escrow items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing that interest shall be paid on the Funds. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Security Instrument.

If the amount of the Funds held by Lender, together with the future monthly payments of Funds payable prior to the due dates of the escrow items, shall exceed the amount required to pay the escrow items when due, the excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly payments of Funds. If the amount of the Funds held by Lender is not sufficient to pay the escrow items when due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as required by Lender.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 19 the Property is sold or acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Security Instrument.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to late charges due under the Note; second, to prepayment charges due under the Note; third, to amounts payable under paragraph 2; fourth, to interest due; and last, to principal due.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 19 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Preservation and Maintenance of Property; Leaseholds. Borrower shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property; Mortgage Insurance. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the insurance in effect until such time as a requirement for the insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

8. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

12. Loan Charges. If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

13. Legislation Affecting Lender's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 19. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of paragraph 17.

14. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note had no acceleration occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraphs 13 or 17.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

19. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraphs 13 and 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Lender or Trustee shall record a notice of sale in each county in which any part of the Property is located, and Trustee shall mail copies of the notice as prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. After the time required by applicable law and after publication and posting of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it or to the clerk or recorder of the county in which the sale took place.

20. Lender in Possession. Upon acceleration under paragraph 19 or abandonment of the Property, Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument.

21. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

22. Substitute Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

23. Area of Property. The area of the Property is not more than fifteen acres.

24. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

☐ Adjustable Rate Rider ☐ Condominium Rider ☐ 2-4 Family Rider
☐ Graduated Payment Rider ☐ Planned Unit Development Rider
☐ Other(s) [specify]

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Mark J. Mitchell (Seal) —Borrower

Margaret H. Mitchell (Seal) —Borrower

[Space Below This Line For Acknowledgment]

STATE OF MONTANA

County of .....

On this ..... day of ..... in the year ....., before me a Notary Public for the State of Montana, personally appeared Mark J. Mitchell and Margaret H. Mitchell ....., known to me (or proved to me on the oath of .....) to be the person(s) whose name is (or are) subscribed to the within instrument, and acknowledged to me that he (she or they) executed the same.

My Commission expires:

Residing At: .....
Notary Public

REQUEST FOR RECONVEYANCE

TO TRUSTEE:

The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by this Deed of Trust, have been paid in full. You are hereby directed to cancel said note or notes and this Deed of Trust, which are delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Dated: ....

APPENDIX C

SUMMARY OF BACKGROUND INFORMATION PERTAINING TO REGULATION OF THE GAME FARM INDUSTRY

SUMMARY OF BACKGROUND INFORMATION
PERTAINING TO REGULATION OF THE GAME FARM INDUSTRY

Compiled by the Wildlife Division
Montana Department of Fish, Wildlife and Parks

INTRODUCTION:

The game farm industry has recently experienced national and international growth and expansion, fueled by a lucrative market for breeding stock, market potential for meat and other animal products, Asian demand for certain animal parts - particularly velvet antlers from deer and elk, and trophy shooting. Unprecedented international marketing and translocation of live animals is of increasing concern to wildlife managers and livestock interests, due to attendant threats to native wildlife populations and domestic livestock. In the U.S., wildlife concerns are most accentuated in western states that feature extensive wildlife habitats and premiere wildlife resources -- most especially the Rocky Mountain states, where wildlife is a significant cultural and economic asset.

The need for adequate safeguards for wildlife populations and domestic livestock has prompted wildlife and agriculture agencies in other states, as well as other countries, to institute game farm regulations that emphasize the following: 1) importation requirements for game farm animals, including disease screening and testing, 2) importation bans for deleterious animal species, 3) record keeping requirements, including individual animal identification, and 4) minimum requirements for game farm facilities (fences and equipment to restrain, handle and quarantine animals). Montana, Washington, Oregon and Nevada are currently in the process of updating or revising obsolete game farm rules and statutes. Other western states have either done so recently (Wyoming, Utah, Idaho, California and Colorado) or plan to do so in the near future (North and South Dakota). The following game farm issues are not unique to Montana....they are regional, national and international in scope:

- Some varieties of game farmed animals are known to pose the following threats to wildlife: 1) introduction and transmission of diseases and exotic parasites (a potential threat to domestic livestock also), 2) hybridization/genetic pollution of native wildlife populations, and/or 3) habitat competition/degradation, resulting from establishment of feral populations of escaped game farm animals. The history of game farming around the world demonstrates that any one of these risk factors can result in permanent, irreversible damage to native wildlife resources.

• The track record of game farming in Montana and in other states and provinces indicates that escape of game farm animals from their enclosures is inevitable (Lanka et al. 1990). Causes of such escapes include: inadequate fencing, poor fence maintenance, fallen trees, fire, flooding, wind, drifted snow, damage to fences by confined animals or wild animals during breeding season, vehicle accidents, gates left open, etc. Therefore, any animal species or hybrid that is game farmed in Montana will in all likelihood come into contact with native wildlife and domestic livestock. To provide effective containment of game farmed animals and minimize the potential for contact between game farm animals and wildlife populations or livestock, states and provinces have instituted minimum fencing requirements for game farms. In addition, states and provinces have imposed importation bans on animal species or hybrids that are difficult to contain or recapture, and that clearly pose the threat of irreversible damage to wildlife populations through transmission of diseases or parasites, hybridization or habitat competition/degradation.

• Regulations requiring animal handling and/or quarantine facilities have proven to be necessary to provide the capability for game farm operators and game farm regulators to verify animal identification (ear tags and/or tattoos) and accomplish disease testing, treatment and control. Record keeping requirements, including individual animal identification, have also proven to be prerequisite to accomplishing disease monitoring and control, providing a means to backtrack ownership and movement of individual game farm animals. Record keeping requirements also serve as a deterrent to theft of native wildlife.

• Recent growth of the game farming industry has fueled a number of controversial issues associated with certain game farm practices:

- illegal activities prompted by a lucrative market in wild animals and animal parts, including poaching of wild animals, illegal trade in animal parts, and illegal capture and confinement of wild animals.
- detrimental impacts associated with locating game farm facilities in critical wildlife habitats, including obstruction of traditional migration routes and displacement of wildlife from traditional winter ranges.
- ethical and philosophical concerns about game farm practices that affect public perception of traditional sport hunting, including "canned hunts" (commercial shooting of penned, constrained or tame animals).
- animal welfare concerns, to include conditions under which animals are confined and cared for, and practices such as de-antlering elk and deer.
- expense of regulating the game farm industry, which in

other states and provinces has necessitated diversion of funds from existing wildlife management programs.

DISEASES AND PARASITES of wildlife and captive game farmed animals are not nearly as well documented or researched as they are for domestic livestock. Existing disease testing procedures, developed for use in domestic livestock, do not always provide definitive diagnosis for native wildlife or exotic species. False negative and false positive test results are known to occur with most testing procedures (Lanka et al. 1990). Diagnostic tests have not even been developed for a number of wildlife diseases, restricting identification of such diseases to postmortem examination. These circumstances, combined with escalating trade and translocation of game farm animals (nationally and internationally) have significantly increased the potential for diseases or parasites to be inadvertently introduced to game farms and subsequently, to nearby wildlife populations and/or domestic livestock. Species (and hybrids thereof) that pose known animal health threats to Montana wildlife populations include: wildebeests, hartebeests and sassabies (malignant catarrhal fever); imported moose (especially those from areas where meningeal worm or the large liver fluke is endemic); wild hogs and javelina (pseudorabies); imported white-tailed deer (from areas where meningeal worm is endemic or individuals exposed to infected whitetails); and caribou and reindeer (carriers of Brucella suis type 4).

HYBRIDIZATION/GENETIC POLLUTION: Hybridization may occur between different species, different races (subspecies) and distinct populations within a subspecies. Fertile hybrids are common within certain groups of mammals (e.g., sheep, Ovis sp.; goats and ibex Capra sp.; and deer, Cervus sp.). Cross-breeding of subspecies can have significant impacts on wild populations because such hybrids are most likely to result in viable, fertile offspring. Reproduction of hybrids in the wild results in genetic pollution of the gene pool of native wildlife species. Some hybrids may even have a competitive advantage over closely related native species....due to higher reproductive potential, (larger litter size or earlier breeding age), more aggressive social and breeding behavior, more flexible dietary requirements, or greater disease resistance. For example, red deer and red deer hybrids have a competitive advantage over American elk by virtue of the more aggressive breeding behavior of male red deer and red deer hybrids. Species (and hybrids thereof) that present known hybridization threats to native Montana wildlife populations include red deer, sika deer, axis deer and mouflon.

HABITAT COMPETITION/DEGRADATION: History is replete with examples of both intentional and inadvertent introductions of exotic plant and animal species with unanticipated and undesirable results. Familiar examples in the U.S. include introduction of the

English sparrow, nutria, grass carp and Mediterranean fruit fly, as well as a host of noxious plant species such as spotted knapweed, Canada thistle and purple loosestrife. Another example of local significance is the introduction of mysis shrimp into Flathead Lake. In the case of many exotic animal species, the potential for habitat competition/degradation is accentuated by attributes such as a high reproductive potential (large litter size or early breeding age), aggressive social behavior, flexible dietary requirements, absence of effective predators, and resistance to disease.

Feral populations of game farm animals have caused significant damage to wildlife habitat in a number of other states - wild hogs being one of the most notable. Habitat competition/degradation problems are most accentuated in southwestern states, which provide a "crystal ball" view of problems that Montana could ill afford to cope with. Two species of ibex and gemsbok have established feral populations in New Mexico, to the detriment of native deer and desert sheep populations. In Texas, feral populations of nilgai antelope, axis deer, aoudad, sika and fallow deer (in order of prevalence) are well-established (Teer 1992). A 1988 survey of exotic animals in Texas documented 123 species or varieties of exotics in the state (Traweek 1989). A total of 90,400 animals was confined and an estimated 73,857 were free-ranging, for a combined statewide total of 164,257 (not including feral hogs). Many of these animals are of questionable ancestry, including many that are inbred or hybrid. Studies conducted on the Kerr Wildlife Area, and elsewhere in Texas, have demonstrated that axis, fallow and sika deer can out-compete white-tailed deer. Colorado and Wyoming have had to conduct expensive eradication control measures directed at feral red deer, Barbary sheep and ibex to protect native deer, elk and bighorn sheep populations and their habitats.

Game farmed species that have been free-ranging in Montana include mouflon sheep (eastern and western Montana) and fallow deer (Yellowstone River bottom in the Glendive-Sidney area and the Pryor Mountains). Game farmed species (and hybrids thereof) posing the greatest threat to Montana wildlife from a habitat competition/ degradation standpoint include: chamois, tahr, exotic goats native to Europe and Asia and the Middle East (including ibexes and markhor), Barbary sheep (aoudad), oryx, gemsbok, addax, reedbucks, Rusa deer, Sambar deer, roe deer, wild hogs and javelina.

PROBLEMS PROMPTING THE NEED FOR STATE REGULATION OF GAME FARMS, SOME EXAMPLES:

- In a year's time in Colorado (1990-91), 40% (16 of 41) of the game farms had wild animals enter (mule deer, most commonly); 21% (9 of 41) of big game facilities reported <u>detected</u> escapes; there were at least 2 cases of illegal capture/holding of wild deer or elk; and 5 escaped game farm elk were harvested by hunters. Escaped animals traveled 5-40 miles. These statistics were

documented after the game farm issue was made a high priority by CDW, with additional staff and a substantial budget devoted to game farm monitoring and regulation.

- One of the escaped game farm "elk" shot by hunters in Colorado last year was determined to be a red deer hybrid. The hunter that killed it reported that it was a herd bull with a harem, so it presumably bred a number of wild cow elk while it was free-ranging.

- In Montana, two escaped game farm elk were shot by hunters during the 1991 hunting season, one of which was a suspected red deer hybrid.

- Genetic testing of captive elk herds in Colorado and Alberta revealed 10% (Colorado) to 11% (Alberta) of game farm elk to be red deer hybrids.

- In Colorado, feral populations of ibex, Barbary sheep (aoudad) and mouflon sheep have become established as a result of game farm escapes (Barbary sheep in the Roan Creek area near DeBeque, Barbary sheep, red deer and ibex near the Cathedral Bluffs north of Greeley and mouflon sheep in the Black Canyon of the Gunnison). Mouflon may have hybridized with the Black Canyon bighorn sheep population to an extent to warrant extermination of the entire sheep herd. Last year the Colorado Division of Wildlife estimated that there are in excess of 1,000 exotic animals in the state, approximately 125 of which are free-ranging.

- Control/eradication measures conducted by other states and provinces have proven to be very costly, requiring diversion of considerable sums of money and personnel time from existing wildlife management programs. Eradication of feral populations of exotic animals has proven to be impossible in rugged terrain or heavy vegetative cover. But feral populations have in some cases been confined within a specific geographic area.....at considerable on-going effort and expense.
  - New Mexico's Game and Fish Department has controlled Barbary sheep (aoudad) at a cost of $2,500 per animal.
  - Colorado reports that efforts to control ibex and aoudad have included an effort that eradicated 8 animals at a cost of $48,000 (charged to a game farmer) and an operation that removed 18 animals at a cost in excess of $65,000.
  - Wyoming, even though it bans game farms (except one grandfathered in 1973), is collaborating with Colorado in an expensive eradication program targeting red deer, aoudad and ibex in an area where the two states share a border. Wyoming also had mouflon hybrid sheep in the wild as a result of a trailer wreck in the Wind River canyon.

- Refer to the enforcement issues addendum for a list of problems and infractions that have been documented to date on game farms in Montana.

- Refer to the animal health addendum for a summary of disease concerns pertaining to the game farm industry.

- Refer to the hybridization addendum for a list of hybrid crosses that are known to occur.

- Refer to the prohibited and restricted species addendum for an itemization of species for which importation is prohibited or restricted under provisions of Montana's new game farm rules (adopted May 15, 1992).

ADDENDUM: ENFORCEMENT ISSUES

In conjunction with initiating a rule-making process, the DFWP conducted a statewide inventory of all game farms. During a statewide inspection on March 2, 1992, attention was focused on obtaining a complete inventory of species and numbers of animals present; assessing condition and status of fencing and presence of handling and other game farm facilities, and following up on apparent discrepancies in annual reports submitted to DFWP in January, 1992. Problems and discrepancies that were revealed and documented as a result of a simultaneous inspection of all game farms in the state included:

1) Importation and export of game farm animals without required health inspections.

2) Movement of game farm animals known to be diseased, between game farm operators.

3) Abuse (transfer/re-use) of USDA ear tags: a cross-check between Montana records and those of several other states revealed animals imported as one sex and later exported as the opposite sex; imported as one species and exported as a different species; multiple deaths/rebirths attributed to the same animal, etc.

4) New, unused USDA ear tags in the possession of game farmers (they are to be possessed and applied only by licensed and accredited veterinarians), as well as possession of used ear tags that had been treated and prepared for re-use.

5) Deliberate baiting/trapping of wild animals onto game farms.

6) Fraudulent reporting of numbers and sex of game farm animals. On individual game farms, discrepancies between the number of elk on hand and the number of elk reported or accounted for through bills of sale ranged between 1 and 44. For white-tailed deer and mule deer, the statewide discrepancy between the number of animals on hand and the number accounted for was 63 and 440, respectively.

7) Poor condition/poor maintenance of fences, allowing animals to egress and ingress.

8) Electric fencing inadequate to contain game farm animals or to exclude wildlife. In addition, the power was disconnected at two game farms on the day of the statewide inspection.

9) Multiple use of invoices (duplicate copies) as well as alteration of those invoices (including numbers and sex of animals transported and dates of transactions).

10) Movement of animals between game farms without the required

bills of sale.

11) Unreported escapes of game farm animals.

12) Ingress of wild animals onto game farms.

13) Operation of unlicensed game farms.

14) Theft of game farm animals from one operator by another.

15) Possession of species not included on the operator's game farm license.

16) Failure to submit a copy of the bill of sale (to DFWP) within the required 10 days.

17) Movement of animals between unlicensed and licensed game farm operators.

18) Inaccurate reporting of game farm animals to county assessors for taxation purposes.

19) Inability of game farm operators (or DFWP personnel) to accurately census game farm animals in very large game farm enclosures.

20) Need for some improvements to game farm report forms issued by DFWP.

Follow-up investigation of the foregoing problems and infractions resulted in search warrants being served on July 8, 1992, to 13 game farm operators on 12 game farms. Game farm records and other material evidence were seized at these premises and prosecutions are pending.

ADDENDUM: ANIMAL HEALTH

When animals are moved from one geographic location to another, any parasites or infectious disease agents they harbor are moved with them. Unfortunately, translocation of animals with little or no forethought or precaution has historically been the rule, rather than the exception. Inadvertent transcontinental introductions of parasites and diseases of major significance are well documented, including the following examples:

- introduction of rinderpest from Europe to Africa via domestic cattle.
- introduction of the Echinococcus granulosus tapeworm to various parts of the world via introductions of various species of deer.
- introduction of the large American liver fluke (Fascioloides magna) from North America to Europe via American elk.
- introduction of a protozoan parasite that causes whirling disease from Europe to North America via imported brown trout.
- introduction of two nematode parasites (Camelostrongylus mentulatus and Trichostrongylus probolurus) from India to Texas via blackbuck - (in spite of quarantine procedures).

DISEASES AND PARASITES OF CONCERN WITH REGARD TO GAME FARMING:

Brucellosis (B. abortus): The bovine brucellosis bacteria is passed from infected individuals to other animals through oral contact with aborted fetuses and fetal membranes and fluids. Bison in and around Yellowstone and Grand Teton National Parks carry brucellosis. Elk that make use of winter feeding grounds in Wyoming are also infected, with infection rates on some feed grounds ranging between 16% and 45%. There is concern in Wyoming and Montana about the potential for brucellosis to be transmitted from bison or elk to domestic livestock. The B. abortus bacteria causes undulant fever in humans. Symptoms include recurring fever, muscle and joint aches, headaches and nausea. Undulant fever is usually treatable with antibiotics. Brucellosis in elk is unlikely to be contagious to hunters at the time of the fall hunting season. However, there is potential risk in handling reproductive organs during field dressing. The meat of infected animals is edible and does not pose a health risk to humans.

Brucellosis (B. suis type 4): The B. suis type 4 form of brucellosis is prevalent in free-ranging caribou and herded reindeer populations in Canada, Alaska and Scandinavia. The incidence of sera positive caribou on the Seward peninsula of Alaska is as high as 30%. There is uncertainty as to how it is transmitted. Commonly used field tests (rapid card test and standard plate test) will identify acutely infected individuals but not all chronically infected carriers. Cattle exposed to infected reindeer will sera convert, thereafter testing positive for brucellosis. B. suis type 4 is known to be fatal to moose but it

is not known how exposure would affect mule deer or white-tailed deer. B. suis type 4 can be transmitted to humans and is considered by some to present a more serious threat to human health than B. abortus. Human deaths attributed to B. suis type 4 infections occur most commonly among native peoples in Canada and Alaska.

Tuberculosis (Mycobacterium sp.) Mycobacterium bovis is the most frequently isolated strain of tuberculosis found in hoofed animals. This slow-growing bacterium can be transmitted via respiratory secretions and other body fluids, and can remain viable for a considerable period of time in the environment. Existing Tb testing procedures, developed for domestic livestock, cannot determine with certainty whether or not the disease is present in cervids. Due to limitations of Tb tests for identification of infected individuals, testing is applied on a "whole herd" basis to identify infected herds (a minimum sample size of 200 is recommended by AgCanada). Tb infections are often not visibly apparent in cervids - animals that appear to be perfectly healthy may harbor Tb lesions. This was verified recently in the case of a Tb-infected elk herd on a Colorado game farm. Postmortem examinations revealed gross Tb lesions in healthy-appearing animals, some of which had been harboring Tb for at least 4 years.

Alberta and Ontario are dealing with the aftermath of a major Tb outbreak in captive cervids. In the U.S., Tb has been confirmed in 13 game farm herds as of September 1, 1992, with tissue cultures pending for an additional 13 herds (Dr. Mitchell Essey, USDA, personal communication). To date, Tb testing in Montana has indicated Tb in 5 game farm cervid herds. In Canada, Tb has been transmitted from captive cervids to a cougar, pigs, domestic cats, llama and cattle. The USDA has documented four instances of Tb transmission from game farmed cervids to domestic livestock in the U.S. to date (Pennsylvania, California and 2 in New York). Transmission of Tb from game farmed cervids to domestic livestock has resulted in loss of New York's Tb-free status, with Pennsylvania soon to follow (Dr. Frye, USDA, personal communication).

Transmission of Tb to free-ranging wildlife populations would be a catastrophe. Efforts to control it, to protect wildlife resources and the state's livestock industry, would be very expensive and likely, futile. Examples of known, persistent "reservoir" wildlife species, that in other parts of the world have precluded eradication of Tb from free-ranging wildlife, captive wildlife and domestic livestock, include the Asian water buffalo in Australia, the brush-tailed opossum in New Zealand, European badgers in Europe and cape buffalo in Africa. Expensive eradication/control programs targeting reservoir wildlife species have proven universally to be unsuccessful. New Zealand is a good example. Even though infection rates have been reduced as a result of a multi-million dollar Tb eradication program, Tb persists in 50% of captive red, fallow and sika deer herds and in free-ranging deer herds occupying a third of the country's land area.

Bovine tuberculosis poses a substantial human health threat. If Montana wildlife populations were to be infected with Tb, hunting and other wildlife-related recreational activities that are currently public assets would be transformed into human health hazards.

Johne's Disease (Mycobacterium paratuberculosis): The slow-growing bacterium, M. paratuberculosis, causes enteritis in domestic livestock and wild ruminants. It is spread in the feces of infected animals and may persist in the environment for several months. While it can be fatal, it is not apparent in many infected animals. Johne's disease is very difficult to diagnose in live animals (and difficult to distinguish from Tb) and has proven to be virtually impossible to eradicate or control in the wild. In all cases where it has been documented in free-ranging wildlife, association with infected livestock has appeared to be the source of infection. However, it has been demonstrated that once a wildlife population is infected, it can serve as a reservoir for the disease, dispersing and maintaining the bacteria indefinitely (as is the case with Tule elk at Point Reyes National Seashore, California).

Meningeal worm (Parelaphostrongylus tenuis) is carried by white-tailed deer and is prevalent in the eastern U.S. (E. of the 100th meridian - as far west as Manitoba and eastern N. Dakota). The prevalence of infection in white-tailed deer populations in the eastern U.S. varies widely but exceeds 90% in some areas. P. tenuis larvae are resistant to freezing and desiccation in the environment. The arid great plains is credited as serving as a natural geographic barrier that has historically excluded this parasite from the western U.S. The adult meningeal worm is normally found in the meningeal covering of the brain in white-tailed deer. The larvae are shed in the feces of their host. After penetrating land snails or slugs the larvae are able to complete their life cycle when the infected snail is ingested by a suitable host. The larvae develop into subadult worms that migrate to the brain where they mature and produce larvae. With ingestion of a single infected snail, a white-tailed deer, becomes a prolific meningeal worm "factory", dispersing larvae in the environment. There is no definitive test for detecting the presence of this parasite in ungulates, nor is there a means to treat an infected individual or infected population.

As the natural host to meningeal worm, whitetailed deer exhibit no symptoms of infection. However, meningeal worm causes debilitating - and usually fatal - neurologic disease in other native North American cervids, many exotic ruminants and several domestic ruminants. Recent research in Alberta has verified that some elk can survive meningeal worm infections and shed larvae -- intermittently and generally in lower numbers than whitetails (Samuel et al. 1992). Research in Canada has shown the traditional Baermann technique to be less than 35% effective in detecting meningeal worm infection in elk.

Fatal meningeal worm infections have been reported for all cervid species native to North America (moose, caribou, elk, mule deer, black-tailed deer, white-tailed deer and pronghorn antelope) as well as several exotic species (fallow deer, eland and sable antelope) (Pybus 1991). Published reports of meningeal worm infection in domestic livestock exist for sheep (Connecticut, Minnesota, New Hampshire, New York and West Virginia), goats (Michigan, New York and Texas) and llamas (Minnesota, Ohio, Texas and Virginia) (SCWDS Briefs). Domestic cattle have not been shown to be susceptible to infection.

The threat of introducing meningeal worm prompted the province of Alberta to close its borders to importation of all ungulates in September, 1988. British Columbia followed suit in May 1991, by banning importation of elk, moose, white-tailed deer and mule deer.

Tissue worm (Elaphostrongylus cervi): is a close relative to meningeal worm. It is not native to North America but is prevalent in Scandinavia and New Zealand. The worm occurs in muscle tissue as well as in the central nervous system and causes neurological symptoms similar to those characteristic of meningeal worm. Tissue worm has been translocated in reindeer from Scandinavia to an island off New Foundland. The reindeer didn't survive but the tissue worm parasite persisted in native caribou populations. Red deer and alpacas recently imported to Canada from New Zealand were found to be infected with tissue worm. Introduction of tissue worm is considered as great a potential threat to wildlife and domestic livestock as introduction of meningeal worm. Alberta recently banned importation of alpacas and llamas to prevent introduction of E. cervi into the province.

Malignant catarrhal fever (MCF) : there are two known forms of this sporadic, fatal disease of ruminants and cattle. The form that occurs in the wildebeest family is caused by a herpes virus. The virus responsible for the form that occurs in domestic sheep has not been identified but can be diagnosed through a serum test. There is not a lot known about transmission of MCF. It appears that the virus is shed in the respiratory secretions of calves and lambs. While the virus does not affect its host, it is fatal to other exposed cervids and livestock. Outbreaks of MCF in native cervids, though uncommon, are typically seen in captive herds, under crowded conditions. Game farmed species such as axis deer, sika deer, red deer, blackbuck antelope and bison are susceptible, as well as the native cervid species. The potential for virus transmission is enhanced by proximity to sheep or members of the wildebeest subfamily (wildebeest, topi, hartebeest and blesbok). A recent documented case of MCF in game farmed ruminants occurred in December 1991 and involved captive WT deer in Alabama (SCDWS Briefs).

Pseudorabies (PRV): is a viral disease of swine that causes abortion in sows and fatal illness in newborn pigs. Older swine do not show symptoms but can become lifetime carriers. Cattle, sheep,

dogs, cats, raccoons, foxes, and small mammals can become infected and die suddenly of virus-induced nerve and brain damage. Surveys conducted by SCWDS and other researchers have revealed that wild swine commonly harbor PRV. Pseudorabies in wild hogs has been documented in 12 states: Alabama, Arkansas, California, Florida, Georgia, Hawaii, Louisiana, Missouri, Mississippi, Oklahoma, South Carolina and Texas (SCWDS Briefs).

Besnoitosis: is caused by a protozoan parasite found in the bones, tendons and fascia (just under the skin) of the legs and face of infected caribou and reindeer. Post mortem examinations indicate that 21% to 23% of caribou in British Columbia are infected with the North American form of the parasite (Besnoitea tarandi) (Dr. Ron Lewis, personal communication). The Old World form (Besnoitea benwadi) occurs in cattle, goats, sheep and antelope in Africa, the Middle East, Eastern Europe and sporadically in Western Europe. Neither the life cycle of the parasite or the means by which it is transmitted are well understood. Recent research in France suggests that biting flies may play a role. Severe cases of the disease are manifest in sloughing of the skin from the infected animal's head and legs. Although besnoitosis does not cause serious health problems in caribou and reindeer, it proved to be fatal to deer species housed near infected reindeer in the Winnipeg zoo. Deer mortality from besnoitosis has also occurred at a wildlife park located near Moose Jaw, Saskatchewan. Musk oxen are also known to be susceptible. The North American form of besnoitosis has not been shown to be infective to domestic cattle.

Other Diseases of Concern: There are a number of diseases that have been identified in wildlife only recently such as chronic wasting disease, bovine spongiform encephalopathy (BSE), dermatophilosis and poxviral dermatitis. In addition to the more well-known diseases itemized above, participants in the January 1991 Game Farming Symposium in Boise Idaho identified the following diseases of concern associated with game ranching/farming of cloven-hoofed animals: Brucella ovis, orbiviruses (bluetongue and epizootic hemorrhagic disease), pseudorabies, spongiform encephalopathies (scrapie, bovine spongiform encephalopathy, chronic wasting disease), arterial worm (Elaeophora schneideri) and ectoparasites such as ticks, mites and lice. Participants in this symposium recommended that all game farm animals be examined for evidence of all of the above diseases prior to being cleared for importation to any state or province.

During the course of providing the foregoing information on animal diseases and parasites, recognized experts in the animal health field expressed worry that comparatively little is known about diseases of wildlife species, especially species that are not indigenous to North America. This is in contrast to a substantial accumulation of knowledge and experience concerning diseases of domestic livestock species - as well as proven technology to test

and treat domestic livestock. There are many as-yet-unknown health ramifications of confining animal species that are not accustomed to crowding, mingling of species that have never before come into contact, and translocation of animals from one geographic area to another. The animal health experts we talked with advocate caution on the part of wildlife managers and veterinarians, urging that we maintain the same level of concern and caution for what is not yet known about animal health issues related to game farming, as we do for the animal health concerns that we currently do know something about.

ADDENDUM: HYBRIDIZATION

Occurrence of the following hybrid crosses has been documented:

ELK X RED DEER - Common in New Zealand and on many North American game farms. Free-ranging red deer and elk have hybridized extensively in New Zealand (Harrington 1985, Challies 1985, Short 1985). Elk and red deer have been intentionally hybridized on New Zealand game farms to produce "megareds". Genetic screening of captive elk in Colorado revealed evidence of red deer hybridization in 13 of 21 game farm herds (10% of the individuals tested). Genetic testing of game farmed elk in Alberta indicated that 11% are/were hybrids. The genetic testing laboratories in the U.S. and Canada report that blood samples submitted to them for genetic testing are running between 10% and 18% positive for evidence of red deer hybridization.

RED DEER X SIKA DEER - Free-ranging red and sika deer in Ireland have hybridized to the extent that it is now believed that no pure individuals of either species remain (Harrington 1985, Ratcliffe 1987).

ELK X SIKA DEER - Some game farmers in the U.S. are crossing sika deer and elk to produce an "American sika deer" (5/8 elk and 3/8 Asian sika deer). Use of these American sika deer as herd sires is promoted as a way for game farmers to "upgrade" their Japanese sika deer herds to elk-size hybrids.

RED DEER X SIKA DEER X ELK - At the center of a recent court case in Wyoming were 12 red deer/sika deer/elk hybrids that an individual imported into Wyoming. They produced fertile offspring.

MOUFLON X BIGHORN SHEEP - Hybridize readily and produce fertile offspring.

AXIS X RED DEER - Produce fertile offspring

AXIS X WHITE TAILED DEER - Hybridization known to occur in penned situations.

ADDENDUM: GENERA AND/OR SPECIES FOR WHICH IMPORTATION INTO MONTANA IS PROHIBITED OR RESTRICTED UNDER PROVISIONS OF THE NEW GAME FARM RULES:

1) In the family Bovidae: all members of the following genera and hybrids thereof:

Subfamily Caprinae: the following genera are hardy, prolific, aggressive competitors, innate dispersers and difficult to effectively contain. Due to the potential for competition with native wildlife species and hybridization with native sheep and goats, importation of the following genera is prohibited:

- Rudicapra (chamois) Mountains of C. and S. Europe & Asia Minor. Natural dispersers; capable of clearing 12' fences; potential for habitat competition.

- Hemitragus (tahr) Himalayas, Oman and mtns. of S. India. A mountain species with same niche as the North American mountain goat - potential for habitat competition. Difficult to contain - a notorious jumper.

- Capra (goats and ibexes native to Europe, Asia Minor & Middle East - excluding domestic goats, Capra hircus). Ibex native to European Alps, Afghanistan, N. India & N. Ethiopia. Potential for habitat competition. Difficult to contain: the ibex is a notorious jumper that can clear 12' fences. Markhor goats can jump 8'. In addition to being notorious jumpers, members of the genus Capra are adept climbers. They may scale fences and corner sections where support structures exist. They are hardy, capable of moving long distances, adaptable to a wide range of environments, and survive well in the wild.

- Ammotragus (Barbary sheep or aoudad) Mtns. of Morocco & W. Sahara to Egypt & Sudan. Natural dispersers and difficult to contain (can clear 8' fences). They are very aggressive and prolific (can produce 4 young per year). Potential for habitat competition: out-compete both bighorn sheep and mule deer. In addition to forage competition, they exhibit aggressive behavior and are known to drive deer from bedding sites, exclude other ungulates from water sources and prevent bighorn rams from successfully breeding by herding the ewes. In Col., 76% carry pasteurella. Barbary sheep have also been shown to carry bluetongue, infectious bovine rhinotrachetis and epizootic hemorrhagic disease.

- Ovis (only the mouflon species, Ovis musimon) Corsica, Sardinia & Cyprus. Readily hybridizes with

bighorn sheep, producing fertile offspring. Do well in the wild.

Subfamily Hippotraginae: Oryx and Addax are plains animals. Primary concern is potential habitat competition with native species. Disease transmission is also a concern.

- Oryx (oryx and gemsbok) Morocco-Egypt; Arabia, Ethiopia & S. Africa. Very aggressive - even known to kill elk. Feral oryx are a big problem in N. Mexico.
- Addax (addax) W. Sahara, Egypt & Sudan.

Subfamily Reduncinae:

- Redunca (reedbucks) Africa. A short grass grazer. Potential for habitat competition with WT deer and antelope. Females very similar in appearance to female WT deer - to eradicate, have to shoot out WTs as well.

Subfamily Alcelaphnae: Plains species that are carriers of malignant catarrhal fever.

- Connochaetes (wildebeests)
- Alcelaphus (hartebeests)
- Damaliscus (sassabies: blesbok, bontebok, topi)

2) The following species in the family Cervidae (and hybrids thereof), due to the potential for hybridization, transmission of diseases and parasites, and habitat competition/degradation. Hybridization is fairly common among members of the deer family, particularly within the genus Cervus (Harrington 1985, Short 1985, Gray 1972). Exotic species in the genus Cervidae have transmitted exotic parasites to moose in the NE U.S. and to white-tailed deer in Texas. Members of the Cervidae family readily become feral, are difficult or impossible to eradicate once they are free-ranging, and exotic species are characteristically aggressive competitors with native wildlife species:

- moose (Alces alces) Parasite concerns, primarily meningeal worm and liver flukes.

- All Red Deer (Cervus elaphus), and crosses with North American elk (including C. e. canadensis, roosevelti, manitobensis, nannodes, and nelsoni). Red deer and red deer hybrids may be difficult to distinguish from elk, readily become feral, are very aggressive breeders and readily hybridize with North American elk.

- axis deer (Axis axis) India, Nepal, Sri Lanka. Can adapt well to both wet and dry climates and can out-compete WT deer. Known to hybridize with red deer and

white-tailed deer.

- Rusa deer (Cervus timorensis) Java, Celebes, Timor, Moluccas & associated islands.

- Sambar deer (Cervus unicolor) India to SE China, Malay Peninsula and associated islands.

- Sika deer (Cervus nippon) SE Siberia, China, Japan, Korea, Manchuria. There are 9 subspecies, the smaller Japanese variety being the most prevalent on game farms in the U.S. Some of the Asian mainland subspecies are larger than the island subspecies, approaching the size of red deer and American elk. Some states (including Texas) consider the sika to be the most difficult exotic species to control once it becomes feral - attempts to eradicate them have been futile. Sika deer are very hardy and when subject to control measures they become very secretive, to the point of becoming nocturnal. Sika deer have been shown to out-compete white-tailed deer and fertile offspring are produced when they are crossed with red deer or elk.

- Roe deer (Capreolus capreolus and C. pygarus) Eurasia. People who have worked with these species believe that feral roe deer, due to their size, behavior and adaptability, would be as difficult as sika deer to eradicate or control.

3) All wild species in the family Suidae (Russian boar, European boar) and hybrids thereof. Concerns include pseudorabies and habitat competition/degradation - including detrimental impacts to ground nesting birds. Feral hogs are a serious problem in California, where they now number well in excess of 100,000.

The U.S. Animal Health Association adopted a resolution in November, 1991 recommending that states that do not currently have feral hogs, consider banning them as 15 states already have. This resolution was prompted by the October 1991 escape of a herd of hogs in Minnesota. Based on experience of other states, they cannot be kept in confinement, are capable of doing enormous damage to vegetation and other wildlife populations (including small mammals and ground nesting birds such as turkeys) and cannot be eliminated once they become established in the wild. There are currently 23 states that do have feral hogs and 27 that do not (including Montana).

4) In the family Tayassuidae, the collared peccary (javelina) (Tayassu tajacu) and hybrids thereof. Same concerns as those itemized for the Suidae family.

The following species have been designated in the new rules as "restricted species", on the basis of specific animal health risks they pose to wildlife and/or domestic livestock:

- white-tailed deer (Odocoileus virginianus). Carrier of meningeal worm. Importation of white-tailed deer into Montana is allowed only for game farms currently licensed for white-tailed deer and which currently possess white-tailed deer. The only white-tailed deer that may be permitted entry are those originating from states west of the 100th meridian (where meningeal worm is not endemic) and which meet specific testing protocol outlined in the rules. This provision allows game farmers currently raising white-tailed deer to obtain breeding stock needed to avoid inbreeding.

- caribou (reindeer) (Rangifer sp.). Due to genetic concerns associated with the MT/ID interstate caribou population and concern about potential transmission of Brucella suis type 4 to native moose, deer and elk populations and humans, importation of reindeer into Montana will be allowed only under the following conditions: 1) all animals in the shipment originate in a herd located south of the Canada/U.S. border that is certified brucellosis-free (both B. suis and B. abortus) and tuberculosis-free, as determined by whole-herd testing, and 2) the destination of these animals is not located west of the continental divide.

Canadian researchers working with free-ranging reindeer and caribou have recently reported finding blood titers indicative of unidentified herpes viruses. Due to the immunosuppressive effects of such viruses, there is concern about the potential for additional, unknown health risks that reindeer and caribou may pose to wildlife and cattle.

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PERSONAL COMMUNICATIONS:

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APPENDIX D

RESPONSES FROM OTHER AGENCIES

Fish · Wildlife · Parks NEWS

Montana Department of Fish, Wildlife and Parks, 1400 South 19th, Bozeman, MT 59715
Contact: Bernie Kuntz 994-4042

FOR IMMEDIATE RELEASE

MARCH 5, 1993

FWP Prepares Environmental Assessments For Game Farms

BOZEMAN--The Montana Department of Fish, Wildlife and Parks (FWP) is preparing Environmental Assessments (EA's) for two applications for game farms in southwest Montana, and has set a public review period for the applications. FWP has jurisdiction over the licensing of game farms.

A proposed 34-acre Smith Game Farm, located approximately 3.5 miles west of Whitetail would involve the raising of elk and mule deer. The 14-acre Mitchell Game Farm is located about three miles southwest of Bozeman and would involve elk ranching.

Public review for these EA's is from March 5-20 for the Smith application, and March 9-23 for the Mitchell proposal. Copies of the draft EA's for both applications are available at the FWP office located at 1400 S. 19th Ave. in Bozeman.

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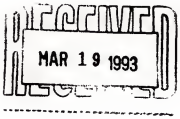
State Historic Preservation Office
Montana Historical Society
Mailing Address: 225 North Roberts • Helena, MT 59620-9990
Office Address: 102 Broadway • Helena, MT • (406) 444-7715

March 16, 1993

Joel Peterson
FWP
1400 S. 19th
Bozeman, MT 59715



RE: Paul and Shannon Smith Game Farm

Dear Mr. Peterson:

As requested we have conducted a cultural resource records search for the designated location of the above undertaking. The following sites are currently recorded in section 36 of the search area:

24JF893	2N	5W	Combination 36	Historic railroad
24JF894	2N	5W	Combination 36	Historic irrigation
24JF792	2N	5W	Combination 36	Historic irrigation

From our current knowledge of the project, we do not believe that the proposed game farm poses a threat to these or other heritage resources.

Thank you for consulting with us.

Sincerely,

David Schwab

David Schwab
State Archaeologist

File:FWP, 1993

RECEIVED
MAR 15 1993

7316 South Cottonwood Road
Bozeman, Montana 59715
406-585-2222

March 12, 1993

Mr. Joel Peterson
FISH, WILDLIFE, AND PARKS
1400 South 19th Ave.
Bozeman, MT 59715

Dear Mr. Peterson:

After reading the environmental assessment on my game ranch license, I feel it necessary to express some of my concerns about its contents. Basically, I think it is negatively biased against game ranching in general. If that is the position of the Fish, Wildlife, and Parks, it should be clearly stated as such. You list all of the negative extremes of what could happen, but yet you fail to identify them as extremes and not the probable norm.

As to my pasture, I intend to rotate or, if necessary, to corral my animals for portions of the year to assure that overgrazing does not occur. I believe that some credit should be given for the game ranchers' ability to manage his own ground. For the past three years, I have run 10 cow/calf pairs on this property without the adverse effects you mention. I have an ag background as well as an applicators license and have experience in land management. I have no intention of abusing my land. In fact, my pasture is in far better condition than when I purchased it. In regards to the fecal material contaminating ground and water, I fail to see the difference between the cows and the elk. In fact, these materials are part of nature and exist everywhere including most of the main watersheds in Montana and especially on elk ranges.

While we share some of the same concerns regarding genetic purity and the spread of disease, our perspective may be a little different. With the blood testing and health requirements of game farm animals, we feel the danger is far greater for our animals to contract disease from the wild animals than the other way around. Can the FW&P undergo the same scrutiny in regards to their game management and the environmental impact?

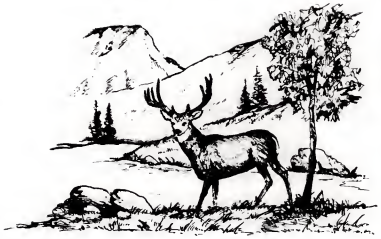
I don't wish to come across as combative or militant. It is my goal to have a good relationship with FW&P, but I believe you should be fair in your assessment and at least identify the extreme possibilities mentioned as such. I wish to have this letter placed in my file. Thank you for your time. If you wish to discuss this further, please feel free to call.

Sincerely,

Mark Mitchell
Owner, Manager

MM:pm

Gallatin WILDLIFE Association



Bozeman, Montana

March 22, 1993

Joel Peterson, Acting Wildlife Manager
Region 3 Mt Dept Fish, Wildlife & Parks
1400 South 19th
Bozeman, Mt 59715

Dear Joel,

Please consider this document as formal comments from the Gallatin Wildlife Association (GWA), pertaining to the environmental assessment of the proposed Mitchell Game Farm.

GWA strongly opposes the issuance of a Game Farm license to Mark and Margaret Mitchell of 7316 Cottonwood Road, Bozeman, Mt 59715. We base our opposition on the following basis:

1. Potential for the introduction and transmission of diseases and exotic parasites. The track record of game farming in Montana and other states and provinces indicates that escape of game farm animals from their enclosures is inevitable (Lanka et al 1990). This fact, coupled with the fact that existing disease testing procedures developed for use in domestic livestock do not always provide definitive diagnosis for native wildlife or exotic species. False negative and false positive test results are known to occur with most testing procedures (Lanka et al 1990). Also, diagnostic tests have not even been developed for a number of wildlife diseases, restricting identification of such diseases to postmortem examination. These circumstances, combined with escalating trade and translocation of game farm animals, have significantly increased the potential for diseases and parasites to be inadvertently introduced to game farms, and subsequently, to nearby wildlife populations and/or domestic livestock.

In 1991, 28 animals in Welch Brogan's game farm near Corwin Springs tested positive with active tuberculosis. This coupled with the fact that Mr. Brogan was witnessed chasing elk off his farm in February, 1989, the potential of a tuberculosis outbreak in the Northern Yellowstone ecosystem could be quite high. The cost of controlling such a disease would be in the hundreds of thousands of dollars,

not to mention the adverse effect it would have on the hunting, recreation and tourism industries. We simply cannot take this risk, that the Mitchell Game Farm would represent. State Veterinarian, Don Ferlicka, has been quoted in regards to the tuberculosis outbreak on Brogan's game farm, "Quite frankly, the problem has not been attacked aggressively enough or early enough. It should have been attacked years ago. It is a more difficult disease to eradicate than brucellosis."

The Province of Alberta has already spent $20 million to fight the spread of bovine tuberculosis from escaped game farm animals. Major outbreaks have occurred in cattle and pigs, and at least 50 humans in the province have been infected. The disease can be contracted simply by breathing the same air with an infected animal or through contact with tuberculosis germs found in urine, feces, nasal discharge or saliva, according to Dr. Valerius Geist widely known Professor of Wildlife and Environmental Science at the University of Calgary. Recent outbreaks of bovine tuberculosis in Canada are attributed to infected elk brought to the province from Brogan's game farm.

2. Hybridization/Genetic Pollution. Many game farmers prefer red deer/elk hybrid animals to those of a pure strain wild elk, because they are easier to handle, they conform to captivity somewhat better than elk, and they are aggressive breeders. Whereas it is difficult to visually detect a red deer/elk hybrid and genetic screening procedures only detect first generation hybrids, if hybrid animals were to find their way into the Mitchell Game Farm, and escape, breeding with native populations would be very likely because native animals are nearly, and because red deer and red deer hybrids reproductively out-compete elk. The potential of the elimination of true Rocky Mountain Elk through genetic pollution is just too much to even risk.

Pat Graham, then Deputy Director of the State Department of Fish, Wildlife & parks was quoted in the September 16, 1991 edition of the Bozeman Daily Chronicle, in regards to a moratorium on importing of exotic big-game, after officials discovered recently that several elk and red deer hybrids were imported to Montana, "exotic, non-native wildlife can pollute the genetic pool of native wildlife. That is simply something that Montana cannot afford. We consider it prudent to prevent this problem from occurring rather than deal with a problem after it has occurred."

The Gallatin Wildlife Association considers it prudent not to take the risk, thus not allowing the issuance of the

Mitchell Game Farm license. Thank you for this opportunity to comment.

Sincerely,

Timothy R. Border

Timothy R. Border, President
P. O. Box 5331, Bozeman, Mt 59717

Reference:
Lanka, B., R. Guenzel, G. Fralick, D. Thiele, 1990
"Analysis and recommendations on the applications by Mr. John Dorrance III to import and possess native and exotic species."
Wyoming Game & Fish Department, Cheyenne, Wyoming.